This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

+ *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.

+ *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.

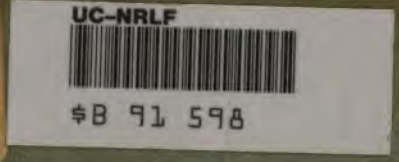
+ *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.

+ *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

About Google Book Search

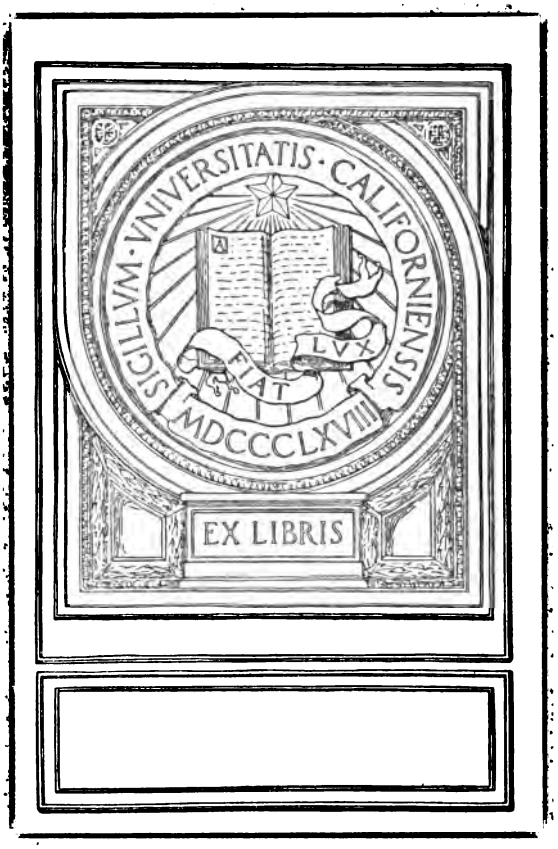
Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at `http://books.google.com/`

HD
1727
B6



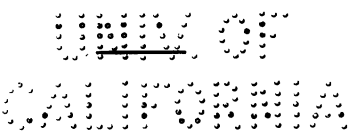
THE CAREY ACT

PUBLISHED BY
NATIONAL IRRIGATION JOURNAL PUB. CO.
CHICAGO, ILL.
1911


SIGILLVM · VNIVERSITATIS · CALIFORNIENSIS
LVX
FIAT
MDCCCLXVIII
EX LIBRIS

THE CAREY ACT

How to Acquire Title To
Public Lands Under
The Act



A Comprehensive Survey of the Regulations
in Force in the Various States

By E. F. BOHM

National Irrigation Journal Publishing Co.
Chicago

HD1727
B6

Copyright, 1910, by E. F. Bohm

COPYRIGHT 1911, BY E. F. BOHM,
(Revised Edition.)

FOREWORD

That the Carey Act will, within the next decade, have proven the most beneficent of all legislative measures for the reclamation and peopling of America's arid lands, is generally conceded by all qualified to judge.

The provisions of the Act are so well adapted to these ends that, granted a continuance of honest and efficient control by the States, it can hardly result otherwise.

Great as the results already achieved, they will be vastly outstripped by those of the near future, and the ultimate measure of growth will be limited only by the availability of land and water resources. As far as the land may be concerned, Congress has wisely conserved the interests of the future by permitting segregations in advance of the necessary surveys, and by delegating to the President the power to withdraw from entry "irrigable lands."

The weak point in the administration of the Act and the greatest stumbling block in the path of the homeseeker has been the lack of a compilation of authentic information and data regarding the—often varying—details of administration upon the part of the States. This is easily explained. The individual States are interested in attracting settlers within their borders and the "construction companies" are—as a matter of course—vitally interested in selling their own "water rights." Otherwise there would be no incentive to reclamation enterprises. The Federal Government, so far as the settler is concerned, has no direct interest in promulgating such data, this being left to the States; and, hence, it follows, logically, that, notwithstanding the tons of literature distributed by the various "Carey Act Companies," in extolment of their various enterprises, there has been a lamentable lack of the kind of data that this work seeks to supply. The situation is such that it has been left to private enterprise to fill the gap, and the labor of collecting and editing, from a hundred sources, the information needed, is of such proportions as to have deterred any prior effort in this direction.

M75763

It is not alone to the steadily-increasing number of eastern homeseekers, to whom the word "irrigation" is a more or less meaningless phrase, that this work is addressed. It is believed that the experienced "irrigator" of the West is fully as much in need of advice as to the niceties of legal interpretation and of State Regulation—not to speak of extraneous matters of equally vital importance to the settler, such as: Taxation, Right of Suffrage, etc., which are herein discussed.

It has not been attempted to present a legal or scientific discussion, in the technical sense. The object in mind has been to present the required data in such form as to be easily comprehensible by all. On the other hand, the discussion has not been permitted to deteriorate into anything savoring of "kindergarten" methods. It is believed that this compilation will prove of interest to all concerned, whether state official, engineer, lawyer, "Carey Act" manager or bond purchaser, or entryman, and in this belief it is respectfully tendered.

THE AUTHOR.

January 1, 1911.

STATE OF SOUTH DAKOTA
Office of State Engineer
Pierre

Mr. E. F. Bohm,
Dear Sir:

I desire to congratulate you upon the success of your work dealing with the "Carey Act," which has been of much interest to me. I feel that same has given a full and comprehensive idea of this law and its benefits to all those who are interested in irrigation and the building up of those portions of the country where the Carey Act is in effect. This subject is one which, I believe, has never been handled in such a manner as you have done in this series of articles, and I wish to add my word of appreciation of same to those of others to which you are duly entitled.

Yours very truly,
SAMUEL H. LEA,
State Engineer.

THE STATE OF WYOMING
Office of
Commissioner of Public Lands
Cheyenne

Mr. E. F. Bohm,
Dear Sir:

I have carefully read your articles in regard to the condition of the Carey Act in the several Western states and feel that you have covered the ground in a manner which will make the articles valuable to all prospective settlers and investors in Carey Act securities.

Yours truly,
R. P. FULLER,
Commissioner.

STATE BOARD LAND COMMISSIONERS
Salt Lake City, Utah,

Mr. E. F. Bohm,
Dear Sir:

Replying to your letter of the 13th inst., and referring to your "Carey Act" articles, will say that the information there given regarding the grant of arid land to certain States and Territories under said act is presented in a way to be of interest and value to persons desiring information on that subject. The many inquiries received by this office on the subject appear to me to be indicative of a desire of the people to own irrigable land.

Very truly yours,
W. H. FARNSWORTH,
Secretary.

SHOSHONE, IDAHO

Mr. E. F. Bohm,
Dear Sir:

We have read your treatise upon the Carey Act with a great deal of interest.

We have given the Carey Act a great deal of attention during the last four years, both from a legal standpoint and from the standpoint of sales agents for that class of land. We have found that there has been little or no printed information regarding the various rules and regulations which have been adopted by the land boards of the different states. Your treatise has covered this subject most admirably, and we have no hesitation whatever in saying that these articles will confer a great benefit upon the legal profession, as well as to the layman who is interested in Carey Act Lands.

We would recommend it most highly to anyone seeking information relative to this subject.

Yours very truly,
PAUL S. HADDOCK,
Attorney.

Officers:
Geo. L. Brooks, President.
John A. Haley, Treasurer.
H. B. Hening, Secretary.

Territory of New Mexico
THE BUREAU OF IMMIGRATION
Office of the Secretary

Albuquerque, New Mexico.

Mr. E. F. Bohm,
Dear Sir:

I have noted your series of articles upon the Carey Act which have been published from month to month, and I wish to state that I have read these articles thus far with a great deal of interest and with much benefit. They make a splendid summary of the application and operation of this law in the several states, and the work should be an unusually valuable one.

Very sincerely yours,
H. B. HENING,
Secretary.

STATE OF IDAHO
Bureau of
Immigration, Labor and Statistics
Joseph P. Fallon,
Commissioner.

Boise, Idaho.

Mr. E. F. Bohm,
Dear Sir:

Knowing the profound study you have given the subject of the Carey Act, I believe that your book will be a valuable work in furnishing information for prospective settlers.

Yours very truly,
JOSEPH P. FALLON.

NATIONAL IRRIGATION CONGRESS

Mr. E. F. Bohm,
My dear Mr. Bohm:

Permit us to compliment you on your valuable articles dealing with "The Carey Act." We have been impressed with the comprehensive manner in which you have handled this subject, and consider your articles a fund of information for those interested in the Carey Act and its workings. Believe me,

Very sincerely yours,
ARTHUR HOOKER,
Secretary,
National Irrigation Congress.

TERRITORY OF NEW MEXICO
1850
Department of Territorial Engineer

Santa Fe, New Mexico.

Mr. E. F. Bohm,
Dear Sir:

This Department has been for some time particularly interested in your articles upon the Carey Act, and it wishes you to know our appreciation of this great work, in the cause of irrigation.

Yours very truly,
VERNON L. SULLIVAN,
Territorial Engineer.

UNIV. OF CALIFORNIA

THE CAREY ACT

A Review of Present-Day State Legislation and Regulations Under The Act

By E. F. BOHM

PART I—INTRODUCTORY

It should be explained, at the outset, that the Federal Act leaves the States free to legislate as they choose, subject, of course, to the general provisions of the Federal Statute, and that, while the States, individually, have enacted Laws in accordance with the Federal Act, the various Land Boards, created by State Legislation to administer these Estates, are endowed with authority to formulate such Rules and Regulations as in their opinion may be necessary; also that since such Rules and Regulations are subject to change or amendment, some of the statements herein made may, at some future time, be without force or be misleading.

The State Land Boards, in the enactment of Rules, have displayed commendable energy and forethought in attempting to adapt their requirements to the exigencies of what, in many cases, were new and untried situations.

As there may not be complete understanding of the Federal Act itself (the fundament of all other Carey Act Legislation), it may be well to refer to it briefly, and to the causes lying back of it, which, interlaced, as they are, with the history of the growth of the Arid Land States, the development of the West, of the gradual appropriation by individual effort of irrigation water resources to the point of exhaustion, and of the legislative changes made necessary by changing conditions, which changes finally resulted in the passage of the Carey Act (and at a later date of the "Newlands" or Federal Reclamation Act), would furnish material for an interesting story, by itself.

Considering the recognized importance of the Carey Act and its beneficent effects, it is difficult to realize that, at the time of its adoption, in 1894, it was necessary for its few advocates, headed by the Hon. Jos. M. Carey, at that time Senator from Wyoming, to introduce the measure almost clandestinely. The Act, in fact, made its first appearance as a "rider" to an appropriation bill, and it authorized the Secretary of the Interior to "contract and agree to patent to the States (named) in which may be found Desert Lands, not to exceed 1,000,000 acres of land" under conditions laid down, which, with the provisos included in the amendment of 1896, are, briefly, as follows: First, that the State shall file a map and plans with reference to the Land proposed to be irrigated, showing the water resources, and other data, at which time the Secretary of the Interior "shall reserve the Land applied for." "This reservation to date from the date of the plan and map, but to be of no effect, however, if the plans be not approved." From this it will be seen that the initial responsibility rests with the Department of the Interior; the more so in the light of recent regulations to which reference will be made further. Second, the State is authorized to enter into contract with persons, associations or corporations for the reclamation of the Lands, and

for their settlement and cultivation. It is prohibited from disposing of them in any other way. Third, the State is authorised "to create a lien to be valid against the separate legal sub-divisions of land reclaimed, for the actual cost and necessary expense of reclamation, and reasonable interest thereon, until disposed of to actual settlers." Fourth, "when an ample supply of water is actually furnished in a substantial ditch, or by artesian wells or reservoirs, to reclaim a particular tract or tracts of such lands, then patent shall issue to such state, without regard to settlement or cultivation."

The original Act was limited in its application to a period of ten years from August 18, 1894—this was amended in 1901, to the effect that the States "were allowed ten years' time from the date of **approval of their applications**, during which to complete the reclamation of the lands applied for"—the lengthening of this period for the reclamation proposed, after the possible expiration of ten years, for a further period, not to exceed five years, to be optional with the Secretary of the Interior, should the State have failed within the ten-year period to complete the scheme of reclamation.

Quoting from the Rules and Regulations adopted by one of the States, which are characteristic in their essentials of the rules of all of them, viz.: "The conspicuous part of the Act is the provision whereby a lien is authorized to be created by the State—to be valid against the **separate** legal sub-divisions of the Land reclaimed for the actual cost and necessary expense of reclamation and **reasonable interest** until disposed of to actual settlers," or "If an ample supply of water has been furnished" (as prescribed by law) "then Patent shall issue to the State without regard to settlement or cultivation." These provisions enable the state to offer the Investor substantial security for the money expended in Irrigation works. Inasmuch as the benefits resulting from the construction of the works accrue to the land reclaimed, it is proposed that they stand pledged for the return of the capital thus invested. The mention of these regulations will be of interest to those contemplating Carey Act ventures.

To further safeguard operations under the Act, the Department of the Interior has issued Regulations, under which the States are required to furnish the Federal Land Officials annual statements showing the names of persons to whom they have passed title with descriptions of the lands patented. The United States officials are charged with the duty of careful inspection of the lands requested for segregation, to see that they fall within the classification of "Desert" and "non-mineral" Lands, as prescribed in the Federal Statutes, thus eliminating the possibility of settlement upon Land to which title could not be acquired within the meaning of the Act. The States also are required to present, with their applications, the fullest data to show that the plans proposed may be sufficient to thoroughly irrigate the land to raise ordinary crops, for which purpose a statement by the State Engineer showing the amount of water available will be required, as well as such other data as the judgment or experience of the Federal Land Officials may suggest as necessary.

The Act of June 22, 1910, permits entry of the surface of lands classified as "Coal Lands," the right to prospect for and to mine coal being reserved, and for such lands only a "limited surface Patent" will issue. The Settler has the right to mine coal for his own domestic use prior to disposal by the Government. (See Appendix.)

As lands which may be classed as "mineral" may not be patented under this Act, the States are required to publish lists of the segregated lands asked for patent during a period of nine weeks, thus permitting time for

contest by reason of prior adverse rights or on account of the non-desert or mineral character of the Lands.

That the Carey Act was a few years in advance of the needs of the country to be benefited does not in any measure detract from the credit due the men instrumental in its passage. It is difficult to conceive of any legal device better adapted to the ends to be accomplished. Notwithstanding the enormous development that has taken place within recent years under the provisions of the Carey Act, and the severe test to which the Act has been subjected, it stands today in its entirety, as originally drafted—the Amendments subsequent to 1901 providing simply for an extension of its applications and facilitating segregation. The States and Territories, which, by Statute, have adopted the provisions of the Act and have passed Legislative measures in accordance with it, are as follows: South Dakota, Montana, Wyoming, Colorado, New Mexico, Utah, Idaho, Oregon, Nevada and Washington. In their essential features, the Carey Act Statutes of the various states are similar—the provisions as to the qualifications necessary to enter land, and the securing of title, being laid down by the Federal Statute of 1894, with its reference to the "Desert Land Acts" of 1877 and 1891, there can be no variations in this respect. In all of the States named, any citizen of the United States (or one who has filed his declaration of intention to become a citizen) of the minimum age of twenty-one, may file upon land under the Carey Act to the extent of 160 acres, in legal sub-divisions of forty, eighty, one hundred and twenty, or one hundred and sixty acres, even though he may have exhausted his rights under all the Federal Land Laws. One filing for an amount less than 160 acres does not exhaust the Entryman's rights; he is privileged to file upon lesser amounts —upon various projects if need be—and in different States, should he so desire, until he has exhausted his quota of 160 acres. Some of the States exclude married women from the benefits of this Act, while others permit them to file.

It required several years to overcome the prejudice of Eastern financiers against investments west of the Missouri River, during which period the Act lay practically dormant, and it was not until the beginning of the present century that capital commenced to appreciate the possibilities of the Carey Act.

The methods to be pursued by Companies desiring to contract with the States of Idaho, Wyoming and Colorado, for the reclamation of arid lands, may be accepted as being fairly representative of the methods pursued by the other States named, and may prove of interest alike to the intending Investor and to the Home-seeker.

So far as the latter is concerned, it would appear to be of much importance to him, also, to understand upon what his own Contract with the Company is based, The Contracts, as heretofore drawn between the States and the Construction companies are not, in all cases, alike, being governed largely by the merits and needs of each Project, and being subject to changes in the light of experience and a closer knowledge of conditions. The Statutes of the States named provide about as follows: First, an application, accompanied by a proposal for executing the work of reclamation is to be filed with the State authorities for the withdrawal of the lands desired. This proposal must describe the source of water supply, the lands to be reclaimed and the works by which it is proposed to reclaim them, the cost of the works and the price per acre, at which the works (including water-rights) are to be sold to Settlers.

It may be well to refer to the fact that the settler in acquiring "water-rights" is in effect, acquiring a proportionate interest in the entire Irrigation Plant. The proposal is required to be accompanied by complete maps, plans and estimates. It is then referred, by the Land Board, to the State Engineer, whose duty it is to ex-

amine the plans, and to report upon the merits of the project to the Board, and the approval of the Board is contingent upon the favorable report of the Engineer. If approved by him the Board applies to the Secretary of the Interior for the segregation of the lands, and as soon as their reservation has been effected, the State enters into contract with the Company. Under the terms of the Amendment of March 15, 1910, the lands desired for reclamation may, upon application by the State, be withdrawn temporarily, from entry, to permit their segregation prior to survey by the Company (See Part 6 "The Federal Carey Act.") A certified check, for an amount determined by the Land Board, is required to be deposited with the proposal, as a guarantee of good faith.

The Company contracting with the State is essentially a "Construction Company," whose duty it is, under the State Law, according to the terms of the contract and under penalty of forfeiture of a Bond, varying in character and amount according to the State contracting, to build the Irrigation Works, and to furnish the necessary capital therefor, the investment to be secured by a lien upon the land to be irrigated, and upon the Irrigation Plant itself. The price of water-rights (usually disposed of through the medium of "shares" in an "Operating Company"—a subsidiary Company) is recited in the contract, also, while the Contract between the "Company and the Settler" is subject to approval by the State authorities. The intending Entryman before filing upon land is required to contract with the Company for water-rights (or shares in the works) according to the amount of land desired. The Construction Company is, by statute and contract, limited to a certain period of time for the completion of the work, and, to secure the funds necessary to carry on the work, it is permitted to mortgage its equity in the Project.

A word of explanation with regard to State Land Boards: These are created in accordance with the Statutes of the various States and usually comprise from three to five members, including the Governor of the State, the State Engineer, and other Officials, and they are variously designated as "State Land Boards," "Desert Land Boards "or "Carey Land Act" Boards. They are charged with the execution of the Statutes and with the administration of affairs thereunder. Most of the States have provided for an Official known as the "Secretary of the Board" or the "Commissioner of Lands," who receives a stated compensation for his services, and is vested with direct control of business matters. The Statutes of Nevada vest the State Land Register with all the powers in other State delegated to the various "Boards" while the Statutes of Washington vest control of "Carey Act" operations in the Commissioner of Public Lands.

The usual method of financing is to issue Bonds, secured, as before described, by a first mortgage against the Property described, the Construction Company executing a Deed of Trust, whereby all its property, rights, franchises and settlers' contracts are transferred to a Trustee, by him to be held for the benefit of the bondholders according to the terms and conditions recited in the deed. These securities, of late years, have come to be regarded with much favor upon the part of investors, they bear a six per cent interest rate, and so far have sold at a price to yield six per cent. They are issued to be retired serially in from ten to twelve years, and in denominations of $500 to $1,000; in some cases as low as $100.

The Contract with the State provides that a release from the terms of the mortgage shall be given the entryman when full payment has been made to the company. The terms of the mortgage must, as a matter of course, conform to the provisions of the State law, and must be approved by the Attorney-General.

The details of administration of the Irrigation Works while under control of the company, and of the distribution of water, are also subject to the approval of

the State authorities, while copies of all the papers and maps are required to be kept on file for public inspection at the office of the Land Board.

It will be seen that the rights of both the Construction Company and of the Settler are adequately guarded by the Statutes and Regulations and, that, granted able and honest supervision upon the part of the State Officials, the risk of failure is reduced to a minimum.

The various "forms" to be used in making entry and final proof, the forms of notices, proofs of cultivation, of final certificates, and of assignments of entry are all prescribed by the State, and will be explained in their order.

The details of administration and of general Legislation affecting Property Rights, etc., the lesser matters, but those which concern the entryman most as affecting his mode of living and future welfare, and which, as a rule, are forced upon his attention after he has taken up his residence, or is called upon for deferred payments, will be explained at length, and the differences existing between conditions in the various States pointed out.

PART II

The Land and Its Disposal

Having pointed out, with a brief reference to the history of the Federal "Carey" Act, the salient features of Federal and State legislation, it will be interesting to trace the course to be pursued by both the company and the entryman (or settler), as well as the methods pursued, and the regulations adopted by the various states, in the control of these great estates.

The contract between the state and the "construction" company having been executed, the next step is to provide for the "entering" of the land by those who are qualified and who may wish to make use of their statutory rights. It is well, at this point, to emphasize the fact that the benefits of the Carey Act, in so far as they relate to the segregation of lands and the acquisition of title, inure, in the same degree, to the individual who may wish to construct his own irrigation plant to furnish water for one hundred and sixty acres, or to an association of persons who may desire to co-operate toward this end, as to the corporation which proposes to sell water rights to hundreds of settlers. The principal causes for the development of large tracts by aggregations of capital may be found: First, in the physical difficulty of individual water diversion; second, the greater economy resulting from joint effort; and, third, the easy terms of payment upon which water rights, under the large canal systems, are sold.

Some small tracts have been taken up from time to time, notably in Wyoming, by individuals, or by two or three combined, while the statutes of both Montana and South Dakota provide for state aid to associations of settlers who desire to operate upon their own behalf. The statutes of all states provide for request for selection of lands upon the part of "any **person** or **persons**, company, firm, **association** or corporation." Since an overwhelming amount of the settlement occurs upon the larger tracts, irrigated under contract with large corporations, the statements herein made are to be construed as dealing with this class of operations, and, for convenience of nomenclature, the contractor is hereinafter referred to as the "Company." Separate mention will be made of special provisions for "Associations" where their importance may justify it. The various statutes, rules and regulations governing the relations of the state, the contractor, and the settler, will be explained somewhat in sequence as they may become of importance in actual operations, and, as far as practicable, will be grouped together as they may deal with the land, the water, or the subjects of general importance.

Wherever the regulations are of a general nature, and, as between all the states, largely in harmony, they will be referred to without specific mention of each state—possible exceptions to the rule will be pointed out by individual mention. Distinct omission of the names of any state or states may be taken to indicate either absence of statute or regulations governing the subject involved.

The official titles of the various governing boards, their constituency and post-office addresses, together with the names of the principal official of the board, are herewith presented.

IDAHO

State Board of Land Commissioners—Governor, Attorney-General, Secretary of State, Superintendent of Public Instruction, Registrar of Land Department. Postoffice address, Boise. N. Jenness, Registrar and Secretary of Board.

WYOMING

State Board of Land Commissioners—Governor, Superintendent of Public Instruction, Secretary of State. Postoffice address, Cheyenne. R. P. Fuller, Commissioner of Public Lands.

COLORADO

State Board of Land Commissioners—Registrar and two other resident citizens of Colorado, one of whom to be a qualified Engineer, all appointed by Governor, confirmed by Senate. Postoffice address, Denver. R. L. Jefferson, Registrar.

UTAH

State Board of Land Commissioners—Five resident citizens appointed by Governor, with consent of Senate, hold office two years. Postoffice address, Salt Lake City. W. H. Farnsworth, Secretary.

MONTANA

Carey Land Act Board—State Engineer, Secretary of State, State Examiner. Postoffice address, Helena. G. R. Davies, Secretary.

OREGON

Desert Land Board—Governor, Secretary of State, Treasurer, Attorney-General, State Engineer. Postoffice address, Salem. John H. Lewis, State Engineer, is Secretary of Desert Land Board.

NEW MEXICO

Carey Act Land Board—Governor, Commissioner of Public Lands, Territorial Engineer. Postoffice address, Santa Fe.; R. P. Ervien, Secretary of Board.

SOUTH DAKOTA

Carey Land Act Board—State Engineer, State Auditor, Commissioner of School and Public Lands. Postoffice address, Pierre. Samuel H. Lea, Secretary.

NEVADA

State Land Registrar, C. E. Deady, Carson City.

WASHINGTON

E. W. Ross, Commissioner of Public Land, Olympia.

QUALIFICATIONS NECESSARY TO ENTER LAND

Any citizen of the United States, or any person having declared his intention of becoming a citizen (who must present a certified copy of his declaration of intention), may present a sworn "Application for Entry" to the board to "enter any of said lands," regardless of whether he (or she) may have exhausted, previously, all rights under the federal agricultural land laws.

RIGHTS OF MARRIED WOMEN

Wyoming, Oregon and Utah—Permitted to file.

Idaho and Colorado—Debarred from filing.

Washington and Montana—Permitted to file if the head of the family, through physical incapacity, or incarceration for crime, of husband.

It is well to remember that married women, to file, must be citizens of the United States and that entries must be made (as to time and place) in a manner permitting acceptable final proof in case husband and wife both make entry, as husband and wife must reside together to perform legal residence.

AMOUNT OF LAND THAT MAY BE ENTERED

Settlers may take up 40, 80, 120 or 160 acres—160 acres being the maximum. Entries must be made in legal subdivisions of 40 acres unless the subdivision should be made to include a greater or less amount, through railroad or canal right of way, or similar causes.

One filing of an amount less than 160 acres may be succeeded by other filings in the same state, or in others, provided the maximum of 160 acres be not exceeded.

Exception—Utah—The statutes provide that "no settler shall be entitled to make more than one entry."

FILINGS SUBSEQUENT TO THE FIRST—SPECIAL REGULATIONS

Idaho—Regulations prohibit two or more entries at the same time, upon the same project, and prescribe that at least sixty days must elapse between applications by the same party, for non-contiguous lands, upon the same project; also, that, in case of a second entry, adjoining one already "proven up," residence and the erection of a dwelling be not required, provided the necessary amount of cultivation (of the second entry) be shown.

Wyoming—If the second filing adjoins the first, and is made before final proof on the first, the final proof may cover both filings, provided proper reclamation is shown on the second entry. If filing is desired on a non-contiguous tract, or after final proof is made on the first entry, residence and reclamation of the second entry is required as in the first instance.

LANDS THROWN OPEN TO PUBLIC ENTRY—WHEN AND HOW DONE

In all states (except Montana, Oregon and South Dakota—see exceptions below) the statutes provide, substantially, that "upon withdrawal of land by the Department of the Interior and the inauguration of work by the contractor, it shall be the duty of the board by publication (usually once each week for four weeks in one newspaper in the county where land is situated, and in one newspaper in the State Capitol) to give notice that the land, or any part thereof, is open for settlement, the price at which land will be sold and the contract price at which the settlers may purchase water rights (shares in the works)."

The "Rules" of Idaho, Utah, Montana and New Mexico provide, further, that "The lands may be thrown open from time to time as the construction proceeds and applications received to enter lands by entrymen after notice given," while the "Rules" of Idaho and Montana proceed, further, to prescribe that, "the throwing open of lands to entry, or the approval of applications to entry, may, at the discretion of the board, be deferred until satisfied that water is actually available."

Exceptions—Montana and South Dakota—The statutes provide that "Any person qualified may make application at any time after the land has been classified."

South Dakota has inserted a further provision savoring strongly of the federal laws upon homestead settlement: "The claimant first settling shall have prior right to enter the land; provided, however, that, if any claimant shall fail, within sixty days after his settlement (upon classified land), or within sixty days after

classification (if not classified when settled upon), to file his application to enter, and to make the necessary payments, his claim will be forfeited and shall be awarded to the next settler."

Oregon—The statutes provide that no land shall be open to entry until water supply is assured, and the regulations provide (Rule 26. Sales—Contract with State): "No water rights can be sold until the works have been constructed to insure a water supply satisfactory, and the company directed by the board to proceed with such sales. Any land so open to entry and sale shall be subject to entry by application to the company," while Rule 15 provides that "no one shall enter until he has first entered into contract with the company for water rights."

The usual method of throwing lands open is by a "drawing," under the supervision of the state authorities.

APPLICATIONS FOR ENTRY—APPROVAL OF ENTRY

In all states applications are required to be made out upon special blank forms, setting forth that the application is made "for the purpose of actual reclamation, cultivation and settlement—that the applicant has never received the benefits of the Act to an amount greater than 160 acres (including the amount specified in the application)." Such application must be accompanied by a certified copy of a contract for a perpetual water right, stating (with date) what entries, if any, have been previously made by the entryman.

"The board shall file the application and other papers and, if allowed, issue a certificate of location to the applicant. All applications shall be accompanied by a first payment of twenty-five cents per acre for the land—to be refunded in case the application is not allowed."

Exceptions—Oregon—Statutes of 1909: "Each application must be accompanied by a payment of not less than $1.00 per acre, to be made by contractor out of the applicant's first payment and to be returned if the application be not approved."

Wyoming, Utah, South Dakota and Montana provide, further, that where the company fails to furnish water under its contract, "the state shall refund to the settler all payments made to it." (The State).

All applications must be subscribed and sworn to, before any officer having a seal and authorized to administer oaths. (The officer need not furnish certificate of his authority.) The filing fee exacted by all the states to accompany the application is $1.00.

New Mexico statutes also provide that "whenever land filed upon under the homestead or desert land acts lies under, and is susceptible to irrigation under any proposed Carey Act project, such land may, with the approval of the federal land office, be relinquished back to the government, and be re-entered under Carey Act provisions, and the board will allow the entryman the first right to file upon such land as it becomes available for entry;" also that applications for entry will not be approved until water is actually available.

In some of the states the company is permitted to exercise its discretion as to whether applicants are qualified to meet the required payment for water rights.

Most of the states provide for the appointment of a representative of the Board in the county wherein the lands are situated, before whom applications may be made. The usual method is to forward the application to the company, which then files it with the Board. This method is obligatory in Montana and Oregon. In most states the filing can be made by an attorney-in-fact, while in Wyoming applications may be mailed to the commissioner of public lands, if accompanied by contracts and payments. This method, of course, cannot be pursued at draw-

ings, where the presence of the settler, or of an attorney, or locator, is absolutely essential for a quick decision as to choice of lands. Where filings are made by an attorney-in-fact the settler is not required to leave his home until the statutory period after water is ready for delivery. In Montana all applications must be presented in person.

PROTECTION OF SETTLER'S FIRST PAYMENT—ESCROW AND COMPANY BOND

All States—Company required to give penal bond in varying amounts "to secure the completion and execution of their contract."

New Mexico requires in addition (Rule 6) that "The company shall give a bond, conditional for the return of any money paid by settlers in case of abandonment or failure to perform its contract with the settler." The Territory also reserves the privilege, in its contract with the Company, to require additional bonds, changing after each yearly payment by the settler, and based upon the amount paid by him to the Company, as protection to the settler until the water is actually delivered.

Montana provides that, "in every case where the company shall contract for the sale of water rights, prior to reclamation, it shall furnish additional bond, conditioned that unless water shall be available upon a date fixed by the board, all moneys paid by purchasers shall be returned with interest, upon demand, after such date."

Idaho, Wyoming, Colorado and Utah provide that in all such cases the first payments, and all papers, shall be deposited in escrow with the board or with some trust company named by it, under an agreement to refund the moneys to the settlers in case of failure of the company to complete its contracts.

The most obvious argument in favor of a filing prior to reclamation is that it enables those applying first to secure the most desirable tracts and to prepare the land for reclamation and irrigation in advance of the completion of the canal, enabling them to make final proof and to receive patent in the minimum space of time.

RESIDENCE—WHEN TO BE ESTABLISHED—ANNUAL AND FINAL PROOF

Idaho, Colorado, Utah, Montana and Wyoming—The applicant (with his family, if married) must establish residence within six months after notice that water is available, and within one year after such notice must cultivate and reclaim at least one-sixteenth of the entry, within two years not less than one-eighth of the entry, and within three years the settler must make "Final Proof" of reclamation, occupation and settlement, or such final proof may be offered (at any time after one-eighth of the entry has been cultivated) at any time before the expiration of three years.

All of these affidavits are required to be sworn to before the secretary of the Board or a designated representative of the Board, and must be supported by the evidence of two witnesses; affidavit of the non-mineral (see Appendix, "Agricultural Entries on Coal Lands") character of the land must be made at time of final proof, also supported by the evidence of two witnesses (this is required in all states).

"The entryman shall give notice of his intention to make final proof by publication in a newspaper in the county wherein his entry is located during the four weeks preceding the date set for making such proof." After final proof a certificate is given him by the official taking the proof, which, in effect, is the same as a warran-

ty deed. A duplicate of this certificate, together with the affidavits, are forwarded to the board and, if found correct and approved, a patent from the state is issued to the settler—provided the state has already received title from the Federal government; if not, then the proofs are forwarded to the Department of the Interior, with the request that patent be issued to the state, upon the receipt of which the state issues patent to the settler.

Final proof must be accompanied by the unpaid balance of the purchase price of the land (25 cents per acre).

Exceptions—Wyoming—Entryman permitted to defer settlement upon condition that he make final proof within one year after notice of water, showing reclamation of one-half of the land, and continuous residence within the thirty days immediately preceding such proof; the statutes of Wyoming also provide that any qualified person having resided in the state three years, continuously, may enter land in the vicinity of his residence, and secure title by cultivation merely, and without the need of residence.

Final certificates are not issued in Wyoming, but, in lieu thereof, the settler is given a receipt for his final payment.

New Mexico—"Within one year after notice of water being available, settler shall cultivate and reclaim not less than one-eighth of his entry and within two years shall appear (before the official designated) and make final proof, showing actual settlement and cultivation of at least one-eighth of his entry, and make the final payment of twenty-five cents per acre for the land." Mention is made of the "final certificate" and the rules for patent are as above recited. No mention is made of the obligation of a married man to reside with his family. The depositions of two witnesses are required with all proofs.

Oregon—The regulations provide that "the settler shall, within three years from date of his application, make proof of reclamation, settlement, and residence for three months (with two witnesses), and file the same with the state land board at Salem," or as an alternative that "Proof may be made upon showing of only thirty days' residence (with his family, if married), the cultivation of three-quarters of the entry, and the erection of a substantial house of at least four rooms. Either proof may be offered at any time before the expiration of the three-year period." The statutes provide: "Upon filing with the board satisfactory release of the company's lien against land of any applicant, it shall be the duty of the board to issue deed for the same."

South Dakota—The statutes make no provision for final proof, but they state that "after the state has received a patent for the land and a purchaser has paid for it in full, the board shall execute and deliver a deed to him."

In General—While the regulations of some of the states make no mention of the obligation of a married man to reside upon his entry with his family, it is to be assumed that such a requirement will be made. All the affidavits herein referred to are executed upon blank forms, which are practically identical (as are the various fees) in all states.

CLASSIFICATION AND APPRAISAL OF LANDS—LEASING AND TEMPORARY OCCUPATION OF LANDS

Montana and South Dakota—The statutes provide that "the board shall cause to be classified all lands received under the Act," and shall "sell or lease any or all of the lands acquired by the state under the Act," the price and terms to be fixed by the board according to such classification, "provided the selling price be not less than fifty cents nor more than $2.50 per acre." Specific mention

is also made in the requirements for proposals for reclamation, where among other recitals the company is to state that "perpetual water rights will be sold or leased to settlers," etc. The statutes of both states provide, also. that "For the purpose of expediting the settlement of any lands, the board may permit such lands to be improved, occupied, and cultivated, for limited periods; provided, however, that such occupancy shall not preclude any person desiring to settle from doing so at any time."

STATE APPLIES TO UNITED STATES FOR PATENT ON LANDS

The federal statute provides that "when an ample supply of water is furnished . . . . to reclaim a particular tract or tracts of such lands, then patent shall issue to such state without regard to settlement or cultivation."

"Before this will be done the state must furnish proof of such supply of water," and the practices in the past as to making application for U. S. patent have varied.

Idaho, Wyoming, Colorado and New Mexico—The statutes and regulations provide that, after the settler's final proof, application is to be made for patent for the land embraced in his entry, and that, upon receipt of same, the state will issue a patent to the settler, and these states (with the exception of Idaho) provide, also, as below, viz.:

Wyoming, Colorado, New Mexico (also Oregon and Montana), "when proof of reclamation of all or a considerable part of a tract by the contractor is furnished, the board shall apply for patent for the lands without regards to settlement and cultivation." Montana establishes a minimum of 2,000 acres to be applied for. Idaho provides, instead, that "if any of the lands shall remain unentered for two years from date of completion of work, the state shall apply for a patent, and when issued shall, upon application, issue patent to the construction company, upon payment for the lands."

Upon inquiry of the states directly affected, at present, it is ascertained that the practice, heretofore, in Idaho, Colorado and Utah has been to make application for U. S. patent only as final proofs are offered. In Wyoming the board applies for a patent "as soon as the canal is ready to deliver water for any, or all, portions of the segregated tract and frequently before any large portion of the land has been filed upon or reclaimed"—the same practice prevailing in Oregon.

In Montana "U. S. patent comes to the state in a lump, including a large per cent, or, possibly, all of it."

In Utah, patent will be asked for as soon as the company is ready to deliver water for individual contracts—actually having water in a substantial canal.

PRICE OF LAND AND PAYMENTS

Idaho, Wyoming, Colorado, Utah and New Mexico—Fifty cents per acre, payable, twenty-five cents per acre at time of filing, and twenty-five cents when final proof is offered.

Montana and South Dakota statutes provide for the appraisal of land (as previously referred to) and for the payment of twenty-five cents per acre at time of filing.

Oregon—The statutes of 1909 (section 13) provide that "each application shall be accompanied by a payment of not less than $1.00 per acre, to be made by the contractor out of the applicant's first payment and to be returned if the application be not approved." In the contract between this state and the only company having lands open for entry it is provided that the company may charge $2.50 per acre for "waste land," i. e., non-irrigable land, and "$40.00 for water rights for irrigable land."

Montana—The regulations of this state provide for a maximum price of $1.00 per acre and "the payment in full at time of making application." Some lands are open to entry now at fifty cents per acre.

In neither Montana nor South Dakota is the payment of any balance at time of final proof referred to—in fact, South Dakota statutes make no provision for final proof—but the statutes of both states provide that "after the state has received a patent and purchaser has made full payment for the land, the state will execute a deed for it."

WATER RIGHT BECOMES APPURTENANT TO LAND

In all states when patent issues from the United States to the states.

FORFEITURE AND REDEMPTION OF ENTRYMAN'S RIGHTS

In all states (except Montana and South Dakota) by statutory provision for the reasons cited, viz.:

Failure to take up residence.

Failure to submit annual and final proof.

Failure to make payments for water rights as they become due.

Idaho, Wyoming and New Mexico—The statutes provide as follows, viz.:

Upon default of deferred payments the company may foreclose and sell land and water rights, according to the terms of the contract, by advertisement in a newspaper in the county for six weeks. Both are to be sold to the highest bidder at the county court house, or other place mentioned in the contract, by the sheriff. The "company" is prohibited from bidding in the property at a price greater than the amount due on said deferred payments and costs of sale.

Within nine months after foreclosure sale the original owner may apply to the purchaser to redeem the land, and the purchaser shall assign the certificate of sale to him upon payment of the amount of lien for which sold, together with costs and interest.

If the lien holder becomes the purchaser and the property is not redeemed by the original owner within nine months, any intending settler may apply to the purchaser within three months after the expiration of the aforesaid nine months to redeem the property and have the certificate of sale assigned to him, upon payment of the amount of the lien for which sold, with interest and costs—the sheriff making the proper entries for record in either case.

If the property is not purchased by the lien holder, the sheriff is first to pay the lien holder, out of the proceeds of the sale, the amount of the lien, together with all costs and interest, and then to pay any balance remaining to the person against whom the lien has been foreclosed, after deducting his fees.

Colorado—The statutes provide that after the original foreclosure sale "the sheriff shall execute a certificate of sale, as in case of a sale of an execution, subject in all respects to redemption as in such case."

Utah—The statutes provide that the "lien may be foreclosed according to contract as mortgages are foreclosed," and that they "may be redeemed within one year with interest at not to exceed twelve per cent."

Montana and South Dakota—The statutes provide the same as those of Idaho, except that the period for redemption is twelve months instead of nine and the rate of interest is fixed at ten per cent, and they provide, further, that the holder of a deed who may be required to transfer the property to an intending settler shall have the right to remove any crops growing on the land at the time.

Oregon—The statutes do not mention this subject, but the contract before mentioned provides that, "in case any entryman shall fail to pay any installment

of principal or interest for one year after it becomes due, then the contract shall become void and all payments made shall be forfeited to the company and the land shall be deemed vacant and subject to sale unless title shall have vested in purchaser and mortgage executed to company."

The statutes of Montana and South Dakota provide, also, for forfeiture of the entryman's rights in case of default in payment of any unpaid balance due upon the land for a period of one year after water is available.

New Mexico—Special provision is made for serving thirty days' notice upon a settler failing to take up residence, to make proof, or to make payment to the territory for lands, for the purpose of affording him a hearing, and for his eviction, by the sheriff, upon cancellation of the entry, if so ordered by the board.

ASSIGNMENT OF ENTRY

Idaho, Colorado, Utah, Montana, Oregon and New Mexico—The statutes provide as follows: "Assignment of entry may be made, but the assignee shall possess all the qualifications of an original entryman and shall file a certified copy of a proper deed of assignment of all the rights of the original entryman, together with evidence from the construction company of the transfer of all the interests in the canal," together with an affidavit as prescribed. It is to be borne in mind that the assignment of entries up to 160 acres debars the assignor from making any further entry under the Act.

Wyoming—Assignments of entry, as such, are not permitted, but the entryman is privileged to relinquish his entry to the state (forfeiting thereby his first payment of twenty-five cents per acre for the land) and to make a new filing of up to 160 acres, should he so desire.

He may assign the credit for water charges already paid up to a subsequent entryman, or he may arrange with the company for a refunding of payments already made.

The "Regulations" of IDAHO grant an assignee of Carey Act Lands six months' time, from date of approval of assignment, in which to establish residence, provided water is available at time of approval and provided that final proof is offered within three years from the date upon which water becomes available.

LEAVE OF ABSENCE BEFORE FINAL PROOF

Idaho, Wyoming, Montana—"An entryman may obtain leave of absence upon application to the state board, but he must, in all respects, conform to the law requiring cultivation and reclamation." The maximum length of time for which leave of absence may be granted is six months.

Utah—Absence is permitted, except during time notice of intention to make proof is being published.

Oregon—"Since annual proofs are not required, there is no occasion for leave of absence."

CHARACTER OF HOUSE TO BE BUILT

Idaho—No final proof shall be accepted where the entryman established residence in a tent or house covered with canvas.

Wyoming—Requires "a house that is habitable regardless of its character where entryman shows his good faith by continuous residence. Final proof within a short time would require the erection of a substantial house as indicating the intention of the settler to make it his permanent home."

Montana—No restrictions—simply a dwelling.

Oregon—No particular character required—so long as settler's affidavit states "that he has built a house." If the alternative proof of 30 days' residence is made (rule 9-A —— see "Annual and Final Proof"), then a substantial house of at least four rooms is required.

CULTIVATION OF ENTRY BY AN EMPLOYE OR TENANT

Idaho, Wyoming, Colorado, Utah, Montana, Oregon—Actual cultivation by someone upon behalf of the entryman is permitted, provided that entryman, in person, conforms to the requirements as to settlement, residence and procfs.

MINIMUM ACREAGE IRRIGABLE IN A LEGAL SUBDIVISION, TO BRING IT WITHIN A "CAREY ACT SEGREGATION."

Idaho and Wyoming—"At least five acres out of each forty acres must be susceptible to irrigation tc permit Carey Act entries thereon." It is to be assumed that the same view of the situation will govern in the case of the other states.

CO-OPERATIVE ASSOCIATIONS—SPECIAL REGULATIONS IN ASSISTANCE OF

Montana—(Sec. 2266) and South Dakota (Sec. 12).

"Parties desiring state aid shall incorporate as a 'co-operative irrigation association' for the reclamation, by their own labor, of arid lands. Each member shall subscribe to one share of stock for each 40-acre tract filed upon.

"After incorporating, the association may apply to the Carey Land Act Board for aid and it shall be the duty of the state engineer to investigate the project, and, if found feasible, to prepare the maps and data required for reserving the land, and subsequently, to furnish the engineering plans necessary, and to exercise general supervisory control.

"The board, upon the approval of the plans by the state engineer, shall cause the lands to be segregated. The association is required to pay the United States Land Office fees, and a fee to the State Land Board of twenty-five cents per acre.

"When all, or any part, of the land has been reclaimed, the board shall apply for patent for such—all expenses being borne by the association.

"After water has been available for four seasons, the association shall, on or before November 1 of such fourth season, pay to the state such additional amount, not exceeding $1.00 per acre. as may have been agreed upon prior to the reservation of the land, whereupon the state shall issue a deed to each stockholder of the association, having settled upon the lands, for the amount of land subscribed for, or the state may issue deed at any time when the land is paid for—the maximum in any case being 160 acres to each settler."

STATE LANDS UNDER CAREY ACT PROJECTS

Idaho, Wyoming, Colorado, New Mexico—Lands belonging to the state, lying under Carey Act projects, may be sold, at auction, to the highest bidder, when water is available, upon application from intending purchasers, such sales however, being limited to a certain acreage each year. The price of water rights for state lands is $10.00 per acre less than for other adjoining lands.

Oregon—"State lands under Carey Act projects are sold at same prices and terms as other state lands. Price of water for such lands is a matter of contract between state, company and settler."

Wyoming—The statutes of 1909 authorize the land board to appropriate "surplus Carey Act fees" for the purchase of water rights, or a proportionate interest in lands and irrigation systems, for state lands, which lands may be leased or sold.

Montana—The statute of 1909 provides for "investigation, by the state engineer, of plans for irrigating state lands."

Utah—The general statutes provide for a so-called "Reservoir Land Grant Fund," the proceeds of which are to be used in storing water for state **and other** lands. The Federal "Carey Act" (section 4) provides that "any surplus of money derived by any state from the sale of (public) lands in excess of the cost of their reclamation shall be held as a trust fund for, and be applied to, the reclamation of other desert lands, in such state."

PART III

The Water

As previously stated, the proposal of the "Company" asking for the withdrawal of Lands desired for reclamation must describe, among other things, "the cost of such works and the price at which they will be sold to those who desire to settle upon the land," and the Statutes further provide that "the works will be sold to the settlers who enter the land, at a price agreed upon with the State. Before the settler may enter the land, he must contract to purchase a share in such works for each acre of land which he desires to enter (in some States one share is apportioned to each 40 acres)—each of the shares representing a certain carrying capacity in the canal system, which, in every case, must be sufficient to deliver the water required for the irrigation of his land. The Board shall provide suitable rules for filing proposals," etc.

"The plan adopted for the administration of the works while in the possession of the company, the annual maintenance fee, the system of distribution of water, and all contracts between the company and the settler must be approved by the State Land Board."

"To enable it to carry on its work, the company will be permitted to mortgage its equity in the project, but its contract with the State must provide that the settler will be given a proper release from the terms of the mortgage when he has made full payment for his shares."

"There shall be kept at the office, for public inspection, copies of all maps, plats and contracts for construction and settlers' entries."

The above is an almost verbatim excerpt from the "Regulations" of the State of Idaho. While the phraseology, in the case of the other States, varies somewhat, and may differ from this recital, it contains the essence of their regulations upon the subject. The Federal Statutes, of course, are the fundamental Law to which all state legislation and regulation must conform, and the regulations of the Department of the Interior, together with the "forms" prescribed for this procedure, as well as the various "forms" prescribed by the States, are presented under appropriate title.

So far as the purposes of this article are concerned, an orderly presentation of the various phases of "Water Rights" will, of necessity, begin with the "Contract between the State and the Company," and "Contract between Company and Settler."

CONTRACTS BETWEEN STATES AND COMPANIES

The contracts between the States and the Companies are not, as a matter of course, in all States, or in all individual cases, so far as the limitations of statutes or regulations permit elasticity, similar. The varying requirements of local conditions do not lend themselves to inflexibility in this regard. It would be clearly impossible, in an article of this character, to even attempt to set forth, in detail, the principal recitals of all the contracts of this nature, in force and operation at this date. Such a proceeding would, of necessity, be too voluminous and too technical for a work designed for popular reading. The discussion will,

therefore, be confined to a detailed treatment of typical contracts operative in the State of Wyoming, to be followed by a less extended reference to the salient features of various contracts in other States, which, for the purpose in view, will prove entirely sufficient.

TYPICAL CONTRACT BETWEEN THE STATE OF WYOMING AND COMPANY

Preceded by the usual introductory recitals common to all contracts, the "Company" being organized under the laws of the State of Wyoming, the State acting through its State Board of Land Commissioners, there follows the recital of the segregation of the lands "hereinafter described," under the Carey Act, recital of water appropriations, of readiness of company to proceed with the construction of the works, and of the delivery of approved bond; it then proceeds to specify as follows, viz.:

Clause 1—Agreement of the company to build irrigating system, according to specifications adopted, with reference to list of lands segregated under the Carey Act and of other lands, if any, for which company is permitted to furnish water—estimated cost of construction, description of main canal lines and laterals—length of time required for completion of system, carrying capacity of canal, and recital of conditions as to time for completion of stated portions of the work and penalties for unauthorized lapse of work, as prescribed by the regulations. (Recital in all contracts.)

Clause 2—Duty of water (amount to be delivered to settlers—expressed in units), method of delivery of water, and provisions for headgates, etc. (Recital in all contracts.)

Clause 3—Provision for division of irrigation works and water appropriation into shares—1 to each acre of land.

Clause 4—Company reserves exclusive right to dispose of such shares to settlers.

Clause 5—Price of shares. (Water rights.)

Clause 6—Terms of payment for shares.

(**Clauses 3 to 6 inclusive**—evidence of ownership—whether by "shares," or otherwise, in substance, in all contracts.)

Clause 7—Right of way for company's ditches granted by State across its lands, and across all Carey Act lands segregated.

Clause 8—Company permitted to enlarge and extend its system upon approval of Board, for irrigation of other lands, and for power purposes.

Clause 9:—Provision for transfer of ownership of canal system to settlers through the instrumentality of a subsidiary "operating" company (or an association). (Whether by this means, or otherwise, essential recital in all contracts.)

Clause 10—Provision for operation of irrigation works by such operating company, for apportionment of cost of such operation and maintenance; maintenance fee; determination of system for measurement and distribution of water to settlers. (All contracts provide method of operation.)

Clause 11—Definition of the interest represented by shares in the "operating company." The rights of the constructing company which are reserved from disposal, confined to the right to enlarge irrigation works and the right to use water for power purposes. Water rights attached to individual tracts of land and made inseparable therefrom.

Clause 12—Company prohibited from selling water-rights, or "shares," to any but qualified entrymen. (All States.)

Clause 13—Company required to issue to settlers shares in "operating com-

pany" at time of purchase, provision for securing interests of company and for the voting power of shares.

Clause 14—Company prohibited from selling "shares" until water ready for delivery to lands to be designated by the land board. Company permitted to sell "Contracts for the sale of shares," prior to water being ready, provided all advance payments for water rights be deposited, in escrow, with the State Land Board.

Clause 15—Company permitted to issue bonds, secured by mortgage upon its interest in the system. (All States.)

Clause 16—Company granted the right, when 90 per cent of the shares are sold, at its option, to assign to "operating company" the unsold balance of "shares," free of all claim, and thereupon to be released from further obligation to contribute toward the maintenance of the system. (Provision for transfer—some method—in all contracts.)

Clause 17—Articles of incorporation of "operating company" and of "Settlers' Associations" taking over the "operating company" must be submitted to State Land Board for approval.

Clause 18—Company agrees to sell "shares" for State lands at a price of $10.00 per acre less than for contiguous Carey Act lands.

Clause 19—In case all water authorized to be used cannot be applied to the irrigation of the lands described, company is permitted, by and with consent of the State Engineer, to sell such portion of water for municipal and other beneficial purposes.

CONTRACT BETWEEN COMPANY AND SETTLER (IN WYOMING)

Contract No. ..

..... Company

AGREEMENT

"Preamble, reciting names of Parties to Contract and dates—reference to company's contract with the State, to its inauguration of work, recital of water permits issued by the State Engineer, recital naming date when water will be delivered to lands mentioned in contract, that Land Board has authorized company to sell, or to contract for the sale of, water rights, that the purchaser has applied to the company to purchase the rights specified.

"In consideration of the sum (named) and of the agreements hereinafter contained, it is agreed that the purchaser shall become entitled to .....shares of stock of the (operating) company, the certificate to be in form as follows, to wit:

"..... (name of operating company).

..... shares. ....., 19...

"This is to certify that (settler's name) is the owner of .....shares of the capital stock of the (operating) company."

The certificate recites the fact "that the owner thereof 'has acquired the right to the use of sufficient water for the irrigation of the lands described,' amount of water to be delivered (expressed in acre units), proximity of point of delivery of water to lands (described), 'to be subject to rules and regulations based upon a system of distribution, subject to the approval of the State Board of Land Commissioners." The certificate also entitles the owner "to a proportionate interest in all the irrigation works, state permits and all rights and franchises of the company, such interest to be based upon the number of shares finally sold, and each share representing such proportionate interest as an acre of irrigable land bears to the total area of irrigable land reclaimed."

"The certificate and the interest it represents cannot be sold separately from the land described. A sale or disposal of the land carries with it this certificate and the interest it represents and the right to the use of water represented cannot be transferred to any other land."

"Said certificate to be delivered as provided in said state contract."

Signatures and attests.....

"The water which the purchaser shall have the right to conduct and receive through the said canal system shall be used upon and become dedicated and appurtenant to the following described lands, to wit: (Description of lands according to government survey), and the parties hereto expressly agree as follows, to wit:"

(1) "Recital of the fact of the agreement having been made in accordance with the provisions of the 'state contract,' which, with the laws of the state, defines the rights of the respective parties."

(2) "The company agrees that so long as it retains control of the ..... (operating) company—i. e., as long as it continues to vote the majority of the stock of said (operating) company—it will cause the (operating) company to maintain the irrigation system in good order and repair."

"Said operating company is to have power to levy all necessary tolls and assessments upon all purchasers of water rights (whether water is used or not), and the company agrees that no charges shall be made until (a date specified), and that charges shall be limited to (a sum stated—the 'maintenant fee'), payable at office of the (operating) company upon (date named) each year, without notice."

(3) "The consideration for the water rights agreed to be conveyed is the sum of ....., and the balance remaining due after initial payment is payable as follows, to wit:"

Table of annual payments, extending over period of from ten to twelve years (or the entire amount or any unpaid balance may be paid in full at any time). "Interest from (date named), at six cent per annum, is to be paid annually. Interest to be computed at eight per cent, if not paid within thirty days from date when due. Interest that may have accrued prior to the date of notice given entryman that the company is prepared to furnish water, is waived."

(4) "The purchaser agrees that upon default in any of the payments above specified, or of any annual assessment for the maintenance of the system, the company may declare the entire purchase price due, and may proceed to collect same and to enforce any lien which it may hold upon the water rights or upon the lands, or may, at its option, enforce any remedy given by the laws of Wyoming."

"And the purchaser hereby sets over, by mortgage to the company, to secure payment of all amounts due, all interest and all rights now in his possession, or which may accrue to him under his contract with the State for the purchase of the land, and agrees that, immediately upon transfer to him of the legal title to such land, he will execute to the company a mortgage, with power of sale, to secure the performance by him of the provisions of the contract, which mortgage the purchaser agrees shall be a first lien upon the lands, superior to any and every incumbrance in favor of any persons whomsoever."

(5) "The purchaser agrees that the shares of stock purchased in the (operating) company shall be, and are hereby, assigned to the company, which is hereby empowered to vote such stock as it may deem proper at all stockholders' meetings of said (operating) company, until fifty per cent of the purchase price of such stock has been paid."

(6) "It is agreed that no water shall be delivered to purchaser while any instalment of principal or interest or any toll or assessment is due and unpaid. Water shall be delivered only during the irrigation season (dates being specified); a domestic supply, when necessary, outside of the irrigation season, shall be delivered under such rules and conditions as shall be determined by the (operating) company."

(7) "This contract may be assigned by the Company, and thereupon the payment of principal and interest, if so provided, shall be payable to the assignee, but the payments for tolls and assessments shall, unless otherwise provided, be paid to the (operating) company, and payment may be enforced by it."

Signatures of parties and witnesses, attests.

Notarial attest.

Blank form of (settler's) assignment of water rights (contingent upon approval of Company).

It is well, to obviate misunderstanding, to dwell again upon the important distinction that the term "Company" in every case refers to the company contracting with the State for the reclamation of the lands, and for the construction of the works necessary, while the "operating company" may be described as a "legal creation," whose ultimate purpose is to become an instrument for the conveyance of title from the "construction company" to the settler. Although

this method affords a convenient means of transfer, it is not to be assumed that it is the rule in all cases of outstanding contracts on segregations already thrown open to entry. In one contract (Colorado) now in force, provision is made for the ultimate transfer of shares of stock in the construction company itself; in another, the contract with the State provides for the incorporation of a "settlers' company," upon the sale of a stipulated percentage of the total of all water rights. In both cases one "water right" is conveyed with each forty acre tract.

The principal features of this contract are, as can readily be inferred, essential to all contracts, regardless of the State—details of method, such as the transfer of "shares," the injection of the "operating" company, and matters of minor importance may vary, but the objects sought are in every case identical, viz.: To vest the settler with the right to the use of sufficient water for his needs, to secure to him his share in the ultimate ownership of the "project," and to assure to the company the payment of the sums due to it.

OTHER CONTRACTS BETWEEN STATE AND COMPANY AND COMPANY AND SETTLER

Idaho—Shares in an "operating company" pass to purchaser at time of application for water rights, and with first payment to the construction company, one share to each acre of land, to be held by construction company, as collateral security, until payments are completed.

Interest, at six per cent, computed from date mentioned (April 1 or March 1), contingent upon water being available for such purposes during the irrigation season of the year named in the contract—if not available at that time, then interest to be computed from the date of actual delivery of water.

If water is available at the beginning of the irrigation season of the year named, then deferred payments upon the principal sum become due upon the dates specified in the contract—if there be any delay in the delivery of water, then all payments on principal and interest are advanced in time according to the period of such delay.

The company reserves the right to vote the settler's shares in the operating company until thirty-five per cent of the purchase price of such shares has been paid.

Colorado—Use of water restricted to irrigation and domestic purposes.

Water may not be allowed to run to waste.

The company reserves the right to formulate rules for the delivery of water, and the right to arbitration and final decision in case of disputes between settlers.

The company disavows all responsibility for damage caused by leakage, breakage or overflow of canals, or by unavoidable shortage of water supply. The settler agrees to a pro rata distribution of the water available in case of such shortage.

Company agrees to pay all taxes for which settler may be in default. The amount of such taxes, with interest at 8 per cent, to be added to the lien upon the settler's entry.

Utah—Company reserves power rights in water from final disposal.

Notice to the effect that maintenance fee is payable may be served in person or by registered letter. Failure to pay such fee, within thirty days of date when due, constitutes a default, vesting the company with the right to foreclose against the settler, and to discontinue his supply of water.

Company will transfer, by warranty deed, water rights and interest in the system upon full payment of purchase price, or, at its option, it may issue shares in a corporation to be formed to take over the property.

Montana—Company restricted to a definite period of time for reclamation and settlement of land.

Provision made for opening of land by drawing.

Shares in operating company—one share to each acre—pass with first payment—to be held by construction company as collateral security for payments due. The company votes settlers' shares until such time as thirty-five per cent of the purchase price has been paid.

"Units" of segregation are turned over to operating company for control upon proper certification that such portions of the system are completed according to contract, and "operating company" shall have the right to collect the tolls levied.

When ninety per cent of the total purchase price of all water rights has been paid in full (or sooner, at its option), the company shall transfer, by deed, to the operating company, all of its interests, excepting only the right to sell, or to contract to sell, water rights at that time unsold.

Water is measured where sub-laterals leave main laterals.

Company reserves the right to deliver water by an approved system of rotation.

Company reserves the right to pro-rate available water in case of shortage of supply.

Enlargements of the system may be made with the approval of the board (within a stated period).

Rights of way for roads provided.

Provision made for supplying water to cities and towns.

All notices to purchasers from the land board or from the company to be mailed.

Oregon—The contract in force in Oregon provides for many things, which, while not made the subject of specific mention in other States, are nevertheless regulated by statutory, or "unwritten" law, or by departmental regulation. They will be referred to in detail on account of their general importance.

Irrigation season defined: "sufficient water" to be delivered from April 1 to November 1, and 1.8 acre feet to be assured between May 23 and August 20. Water to be measured one-half mile from place of use; to be delivered at company's option, by an approved system of rotation, upon ten days' notice, with consideration for the varying needs of different crops. Water to be delivered at the highest practical point to be reached by gravity flow—such point to be determined by the company. Disputes between company and settler as to point of delivery to be settled by the State engineer. Water shall be delivered under such reasonable rules as may be adopted by the company, and approved by the State Land Board.

Settler shall construct the ditches necessary to bring the water to his land and to distribute it.

In case of shortage of water it shall be pro-rated.

Settlers prohibited from polluting the water in the company's canals, or in the ditches upon their own land, unless such ditches terminate within 200 feet of the boundary of the land.

Company obligated to maintain telegraph or telephone lines along its main canals.

Payments, one-quarter cash or less, at company's option. Balance in three or seven annual installments, at Company's option, with interest at six per cent.

Company may sell water rights to "outside lands," with the approval of the State Land Board, upon the same terms and conditions as provided for "Carey Act" lands, and upon the cancellation of an equal area of irrigable "Carey Act" lands. Company agrees to transfer, ten years after date of its contract with the State, to a "corporation of water users," all of its interests. Settler's contract with the company provides for a pro-rata interest in the "corporation," one share

for each acre, when such transfer is effected, the "company" retaining possession of shares representing all water rights at that time unsold. No rights of final possession shall pass to any settler prior to such time.

After the organization of such Water Users' corporation, and until the settlers shall have come into possession of a majority of its shares, the company agrees to elect to the board of directors of such corporation, settlers themselves, in such number as their proportionate interest in the ownership of shares shall entitle them.

Company required to deposit with the Board $1.00 per acre, in cash, with each application for entry, as a deposit for performance of contract, to be refunded at the time of the transfer of the system to the water users' corporation, and contingent upon approval of its work.

Upon default in payment of either principal or interest continuing for the period of one year, company shall be entitled to take immediate possession of the land, and all payments made, may, at its option, be forfeited (unless title to land shall have vested in the purchaser and mortgage for same to company shall have been executed).

All necessary gates and devices for taking water at point of delivery to be installed by company at settlers' expense.

Upon thirty days' default in payment of maintenance fee, company may foreclose upon settler and refuse further delivery of water while such default continues.

Water to be used for stock, domestic and irrigation purposes only—water may not run to waste, and all water after leaving ditches upon settlers' land shall belong to the company.

Right of way is reserved to the company over settlers' land for all necessary canals and for telegraph or other wires, and for cables for conveying electric current, also for roads, which may be opened by the company, or by the county officials, within ten years from date of contract and to be confined to two acres out of every forty-acre tract, in the aggregate; such roads, wherever possible, to go on section and half-section lines—half of such road to be taken from each side of the line—roads not to exceed forty feet in width, and to be so located as not to interfere with any permanent buildings, unless compensation be rendered therefor.

Company reserves the right to shut off water for a reasonable period, if necessary, for the purpose of repairing canals and ditches, and for such interruption shall not be liable to the purchaser.

New Mexico—Company reserves the right to refuse delivery of water in case of settler's failure to cultivate his crops or in case of his wasting water.

GENERAL SUMMARY OF REGULATIONS

Initiation and Completion of Work by Company

Idaho—Sections 1615-1623 (Typical of all States)—"In the case of incorporated companies, the proposal shall state the name of the company, the purpose of its incorporation, the names and places of residence of its officers, and the amount of its authorized, and paid-up, capital stock."

"If the applicant is not an incorporated company, the proposal shall set forth the name of the parties, and such other facts as will enable the board to determine their financial ability to carry out the proposed undertaking."

Idaho—Sections 1621-1623; **New Mexico**—Sections 13 and 14—"No contract shall be made which requires a longer period than five years for the construction of the work—work shall be begun within six months from date of

contract—at least one-tenth to be completed within two years—construction to be diligently pursued to completion (as per terms of contract)—cessation of work for a period of six months, after the second year, will forfeit to the State all rights under the contract. Upon failure to begin, or to complete, the work, within the period specified, or to conform to specifications, it shall be the duty of the State to give such parties written notice of such failure, and if, after a further period of sixty days from date of such notice (unless good reason be shown for such failure), the bond, and all work performed, shall, at once, be forfeited to the State, and the State shall, once each week, for four weeks, by publication, give notice of the forfeiture of the contract, and that, upon a day fixed, proposals will be received for the purchase of the uncompleted works, and for the completion of the contract. The money received from such sale shall first be applied against expense incurred by the State, and towards satisfying the bond, and the surplus, if any, shall be paid to the original contractor."

Contractor's bond is fixed at five per cent of the estimated cost of the works.

Wyoming—Sections 947 (amended) and 948 provide substantially the same as the Idaho statutes, except that one-tenth of the work must be completed within one year, one-third within two years, and that a cessation of work for a period of ninety days, from May 1 to December 1, inclusive, after the second year, will operate toward forfeiture; also, that the Board may, at its discretion, accept from the contractor a full release of all his rights under the contract, and may, thereupon, abrogate the agreement and enter into a new contract with other parties for the completion of the work.

Bond—(Section 946)—Fixed at five per cent of the estimated cost of works.

Colorado—No statutory provision; limitations of time fixed at the discretion of the Land Board and incorporated in the contract with the State. Surety bond in the amount of at least twenty-five per cent of the cost of construction required.

Utah—Sections 2379-2380 (amended) and 2381—"Work to be begun within six months from date of contract—construction shall be diligently prosecuted to completion. Cessation of work for six months shall work a forfeiture of all rights and of bond (saving the rights and property which may have vested in the contractor at time of application), after sixty days' notice by the State. The Land Board shall bring legal action toward these ends, and, thereafter, shall advertise for proposals to complete the work, and, at its discretion, shall contract with a bidder, who will pay the original contractor the highest sum for the works and who will complete them at the original price. If no bid be received upon the terms specified, in the original contract, the Board shall bring action for recovery of the bond." Bond fixed at five per cent of estimated cost of works, but in no case to exceed $50,000.

Montana—Section 2263; **South Dakota**—Section 9—"No contract to be entered into which requires more than five years to complete—all such work to be begun within one year. Upon failure to begin or to complete work within the contract period, or upon cessation of work for six months, after the second year, and after sixty days' written notice by the State Land Board, the bond and the contract (in so far as it relates to any land not settled upon or reclaimed) shall be declared forfeited." "The Attorney-General may institute or defend any suits necessary in this procedure." "Bonds fixed for faithful performance in such amount and with such sureties as the Board may require."

Oregon—Section 9, Act of 1909, provides substantially the same as the Statutes of Idaho. Bond is fixed (Sec. 7, Chapter 226) at "not less than two per

cent of the lien allowed." "The State may also require a cash deposit at the time of settler's application for entry, for further protection of the settler."

Nevada—"No contract shall be entered into requiring more than three years to complete. Work to be begun within three months, and one-tenth to be completed within one year."

Cessation of work for three months (except during the period from December 1 to March 1, inclusive) shall work a forfeiture.

The periods of time herein specified represent the maximum and minimum limits prescribed by the statutes, within which contract obligations are confined, but they do not indicate that the contracting parties may not agree upon longer or shorter periods, respectively, within such limits. In many contracts the companies are bound to institute and to complete work within periods of time shorter than those prescribed by statute.

RIGHT OF WAY FOR COMPANY'S CANALS AND LATERALS

Federal Statute—Under the Federal Act of March 3, 1891—Sections 18 to 21—it is provided that the right of way through the public lands and reservations be granted to any canal or ditch company, individual or association of individuals, formed for the purpose of irrigation, "to the extent of the grounds occupied by the water of the reservoir and of the canal and its laterals and fifty feet on each side thereof." "Thereafter all such lands over which rights of way shall pass shall be disposed of subject to such rights of way." The limitation of time for completion of these works is fixed at five years.

The Act of February 15, 1901, extends this right to include electrical and telephone and telegraph plants and wires.

STATE STATUTES AND REGULATIONS

Idaho—Section 1630; **Wyoming**—Section 963; **Colorado**—Section 20; **Utah**—Section 2387; **Montana**—Section 2274; **South Dakota**—Section 20; **Oregon**—Contract with company; **New Mexico**—Section 22—"The maps of the lands selected in the office of the Board shall show the location of the canals or other irrigation works, and all lands filed upon shall be subject to the right of way of such canals or irrigation works, to embrace the entire width of the canals and such additional width as may be required for its proper operation and maintenance—as may be specified in the contract."

RIGHT OF EMINENT DOMAIN FOR CANALS (AND PUBLIC ENTERPRISES)

(Provided in "Irrigation Statutes" of all States)

The Statutes of Montana (2275) and South Dakota (21) prescribe that this right may be exercised by any person, association or corporation entering into contract with the State to condemn any property subject to condemnation as provided by the Code of Civil Procedure for Right of Way. The amount of land that can be appropriated is, in some cases, limited by statute.

COMPANY PERMITTED TO ENLARGE AND EXTEND ITS SYSTEM, OR TO DELIVER WATER FOR IRRIGATION, POWER OR MUNICIPAL PURPOSES

Montana—Section 2264; **South Dakota**—Section 10—"The builder of any such canal, or other irrigation works, shall have the right to construct, or subsequently to enlarge, or to make such changes in the same, as will permit the water to be used for power purposes, and to use any surplus water carried therein

for such purpose (without interference with the rights of any purchaser of a water right)—all income from such power use shall belong to the builder, but "such use shall be subordinate to irrigation and domestic use of water," etc. The contract between the State and the company, previously referred to, permits additional appropriations of water. and increase of capacity of system or of any part thereof, for the irrigation of further lands, upon approval by the State Engineer, and provides that "so much water as may be necessary for the use of cities and towns which are necessarily dependent upon the system shall be furnished upon such terms as may be agreed upon between the company and the municipality, upon contributing to the support of the system in proportion to the amount of water used, and shares of stock in the (operating) company may be issued for the amount of water represented by such use, to the trustees of any village or the mayor, in trust, for the benefit of the inhabitants," etc. The contract between the "State of Wyoming and company," cited, provides that the company "may reserve from final disposal the right to the use of the water for power purposes, if such right be utilized within ten years from date of contract," and provides that, "in case all the water appropriated cannot be used for irrigation of all the land described, then the surplus may, with the consent of the State Engineer, be sold for municipal and other beneficial purposes—this right to be evidenced by shares in the (operating) company."

One contract between a UTAH company and the settler provides for a "reservation to the company of power rights."

Oregon—Contract between State and Company—"Company may sell water rights to lands outside of Carey Act Segregation upon approval of the State Land Board, upon same terms and conditions as provided for 'Carey Act' lands, and upon the cancellation of an equal area of such lands."

WHEN COMPANY MAY SELL WATER RIGHTS OR MAY CONTRACT FOR THE SALE OF SUCH

See "Lands Thrown Open to Public Entry" and "Protection of Settler's First Payment."

WATER RIGHTS—SHARES—CONTROL AND OPERATION OF WORKS —FINAL TRANSFER OF OWNERSHIP

Idaho—Stock in "operating company" (named), one share to each acre "entered"—evidenced by "Certificate of Ownership"—is issued at time of purchase, to be held by constructing company as collateral security for completion of payments; company votes settler's shares until thirty-five per cent of purchase price has been paid.

Wyoming—When "operating company" is organized at the time the "construction company" enters into contract with the State, the property is immediately turned over to it by deed which is held in escrow by the Commissioner of Public Lands, until the settlers have paid the main proportion of the purchase price.

As rapidly as the fixed per cent (50 per cent) has been paid, the shares of stock in the operating company are issued to settlers, and they immediately assume the powers granted them and vote upon all questions—until this time the "company" holds the stock and votes it, or, the company, at its option, may turn over the irrigation works when ninety per cent of the contracts are sold. The settlers must organize an "operating company" to which the physical works can be deeded. New certificates are issued to settlers upon surrender of their original certificates from "the constructing company." Other procedure same as in the case of Idaho.

Colorado—In one contract shares in the constructing company, itself, are issued when seventy-five per cent of the water rights are sold, and upon full payment, upon the part of the settler, of the purchase price.

In another contract, the company agrees that, upon payment of the entire purchase price, it will cause an "irrigation company which may be organized" to issue a deed to the water rights, and that, when ninety per cent of the contracts are sold, it will issue stock in the "irrigation company"—the "construction company" retaining control of the system until all the stock shall have been issued. In both cases one share of stock is issued against each forty acres, the settler's interest, prior to the issuing of shares, being confined to the right to the use of the water, as stipulated. The "company," further, provides that in case the water be not ready for delivery within three years from date named in the contract, the trust company holding the advance payments in escrow may be required to refund all such payments, together with interest.

Utah—Right to the use of the amount of water contracted for passes with the first payment. Upon full payment by settler, and at the discretion of the Board, shares in an "operating company," to which all the "company's" interests are to be transferred by warranty deed, will issue to settlers—one share to the acre—or, at its option, the company will issue a warranty deed to the settler, directly.

Montana—Contract with Company—Shares in "operating company"—one share to each acre—pass with the first payment—to be held as collateral security, and the voting power of which is reserved by the "company" until thirty-five per cent of purchase price is paid."

The Statutes (Section 2265), (also **South Dakota**, Section 11), provide that "the company may maintain and operate the irrigation works until water rights appurtenant to ninety per cent of the lands have been paid for, when such works shall be turned over to the settlers, who shall, thereafter, have the right to maintain and operate it," and the "contract" provides for such transfer of all its interests, excepting only the right to sell water rights at that time unsold, and "units" of the segregation are turned over to the "operating" company for control upon proper certification of completion, upon the part of the Land Board.

Oregon—One "water right" (right to the use of water) to each irrigable acre passes at the time of purchase. Company is to organize a "water users' corporation" at time specified in contract with State (in one case ten years from date of entering into contract with State), at which time shares in such corporation will be issued to all settlers who may have completed the payments due—the company retaining the right to sell all shares or "rights" then unsold.

The contract specifies, further, that until settlers shall vote the majority of the stock, the company shall elect to the Board of Directors such proportionate number of settlers as their paid-up shares shall entitle them to, and that the books of the "operating company" shall then be open to the inspection of the settlers themselves. (See also "Lands Thrown Open to Public Entry.")

New Mexico—Settler at time of contract subscribes for shares of stock—one to each acre—in an "irrigation company," certificates of which will be delivered to him when all payments are completed, and which are to be held by the company, with all voting power, until the date of such issue. "Company" conveys its interests to "irrigation company" by deed when the last-named company is organized.

In General—It is to be understood that where the entire interest is at once transferred to an "operating company" or an "irrigation company," this organization assumes, at once, complete control and administration of the works,

with the obligation to keep it in repair and with the right to levy such toll or maintenance fee as in the contract with the "constructing company" provided. As long as the "construction company" retains control of the "operating company," through its majority voting power, it is under contract obligation to cause the subsidiary company to maintain the works. Where contracts provide for the transfer of the interests, at a later date, then the "constructing company," itself, administers the works, directly.

COST OF WATER RIGHTS

The cost of water rights reflects, in an unmistakable manner, the increasing use and needs of land in the arid and semiarid districts.

The earlier projects, as a matter of course, were undertaken in localities where the difficulties of bringing water to the land were at their lowest. As the more easily available land and water resources were appropriated, it became necessary to go further for the water—more expensive engineering problems were encountered and greater expense of administration entailed. On the earlier prcjects, in many cases, the cost of water rights was fixed with insufficient knowledge of the difficulties to be overcome and the cost of "rights" at times was fixed too low. In some instances the Boards, subsequently, allowed an increase of lien. In Idaho, the earlier projects were opened to entry at as little as $20.00 per acre, a price, to-day, absurdly low. Upon present-day projects, in Idaho and Wyoming, the cost of water rights ranges from $40.00 to $65.00 per acre; in Colorado, from $35.00 to $45.00; in Utah, from $45.00 to $70.00; in Montana, from $40.00 to $50.00; in Oregon, $40.00 upon the only project having lands open to entry.

TERMS OF PAYMENT FOR SHARES

In all States the entire purchase price for shares may be paid at time of entering into contract, or any unpaid balance may be paid at any time prior to date of last payment. As a rule the annual payments are fixed at a low figure during the first years of the contract, increasing in amount towards the end of the contract periods.

Idaho—Determined by State Land Board in contract with constructing company—from 1-10 to 1-12 down, balance in from ten to twelve annual installments, with interest at six per cent. In case of delay in delivery of water, payments are advanced in time according to such delay.

Wyoming—The statutes prescribe that, not to exceed one-fourth of the contract price, may be demanded as first payment—company may accept less—bâlance in from ten to twelve years, with interest at six per cent. Same provision for delay in delivery of water as in the case of Idaho.

Colorado—"Usually ten to twelve years' time, with interest at six per cent. Payments advanced in time according to delay in delivery of water, if any."

Utah—Ten to twelve annual payments. Interest at six per cent. In case of delay in delivery of water, settler is obligated to make payments as in contract provided—such payments to be held in escrow by the State Land Board.

Montana—From twelve to fifteen annual payments, with interest at six per cent. Settler's first payment protected by company's bond.

Oregon—One-fourth cash (or less at option of company)—the balance in from three to seven annual installments, with interest at six per cent.

New Mexico—Payments to be made in not more than ten annual installments—with interest at six per cent. Settler is obligated to make yearly payments, as in the contract provided, even though there be delay in delivery of water, being

protected by company's bond, which is increased each year according to receipts from such yearly payments.

In all cases where payments are not made when due, the company, among other remedies, has the right to refuse the delivery of water. See, also, "Protection of Settler's First Payment—Escrow and Company's Bond."

MAINTENANCE FEE—(TOLL)

The "maintenance fee," as its name indicates, is the charge necessitated for the upkeep, or maintenance, of the irrigation works. It is in every case payable whether water is used or not. It is levied by the company operating the "works," whether the "constructing" company or the "operating" company, and the payments are made to one or the other, as in the contract provided. The amount to be assessed against each acre is stipulated in the contract, and cannot be increased until control of the works passes into the hands of the settlers, themselves. The company is obligated to pay its pro rata share according to the amount of lands unsold, and if the amount specified be insufficient, the company must make up the difference. This matter has been made the subject of special legislation, in some instances—vide Wyoming Statutes, 1909, Chapter 160, Section 5: "Companies (et al.) shall be authorized to levy such reasonable assessments for the cost of operation as may be authorized by a majority of the members of such companies or associations. Payments of such assessments shall be the necessary requisite for the use of such (works), and in the event they remain unpaid more than ten days after the date fixed, such company (or others) are authorized to close down any diverting device used by such delinquent person until such assessments are paid," etc. All contracts provide, also, that unpaid tolls shall be a lien against the land and any interest in the system. Maintenance fees vary as between different States, and according to the nature of the works and the ground passed over. At the present time they are as follows, viz.: Idaho, thirty-five cents to eighty cents per acre; Wyoming, forty cents (maximum); Colorado, fifty cents to $1.00; Utah, "not to exceed $1.00;" Montana, forty cents to $1.00; Oregon, eighty cents to $1.25, "based upon actual number of acres irrigated."

NOTICE TO SETTLERS THAT WATER IS READY FOR DELIVERY—HOW SERVED

Idaho—Notice published in one newspaper in county in which land is situated. Companies, at their option, may serve notice by mail. "Regulations" provide, also, that company must furnish a list of lands for which water is actually available to the Land Board for approval, before giving notice to the entryman that water is ready for delivery.

Wyoming—Notice by newspaper publication and by mail.

Colorado—Notice by registered mail.

Utah—By publication and by mail.

Montana—By publication and by mail.

Oregon—By mail.

New Mexico—By newspaper publication during four weeks in the county in which land is located.

REBATE OF WATER CHARGE WHERE PART OF ENTRY IS NON-IRRIGABLE, OR IS APPROPRIATED FOR NON-AGRICULTURAL PURPOSES.

When parts of entry cannot be reached by gravity flow of water, or are absorbed by company's ditches (see "Right of Way of Company's Canals and Laterals")—in some cases, also, where railroad or wagon road right of way, or right of way for

other public enterprises, is appropriated, the State Land Boards have, so far as the question has assumed tangible proportions, either established definite rules governing the payment of water charges for such non-irrigable portions, or are disposed to judge each case upon its merits. So far as statements made by the Land Board officials justify expression and in the absence of Statutory "Carey Act" provision (disregarding other State Statutes), the practice in the various States may be described as follows, always bearing in mind the important fact that lands appropriated for canals or roads may not call for a rebate—this question being determined in every instance by the contract with the State. Lands too high to be reached by gravity flow are usually regarded, without question, as calling for rebate of water charges, as below specified.

Idaho—Company permitted to charge for exact acreage irrigable only. The custom is to make contracts for the entire legal subdivision entered, and then to allow the rebate.

Wyoming—Five acres out of each entry is the maximum amount of non-irrigable land allowed without rebate. If the tract comprises only 40 acres, the settler is assumed to make an agreement with the company for the acreage actually irrigable.

Colorado—Some contracts provide that the charge for five acres (minimum), or any amount in excess of five acres, may be rebated—the practice in the future will be to demand rebate for the actual amount involved.

Utah—"The company may sell water for irrigable area only."

Montana—"Two or three acres would not warrant a rebate—beyond that the company may charge only for exact area irrigable."

Oregon—"The land is contoured and the lien fixed on the basis of $40.00 (this refers to the only project at this date open to entry) for each irrigable acre, and $2.50 per waste acre—deduction being made for road and canal right of way."

New Mexico—Company's contract with the State (Section 10) provides: "If it shall be found that there is land in excess of five acres on any legal subdivision of 40 acres, which is not susceptible of irrigation by gravity canals, at reasonable expense, a proportionate reduction shall be made for such excess of five acres—to be deducted from the final payment, unless in excess of such final payment—in which case it shall be made from the next preceding payment." Under the "regulations," the same rule holds good in cases where land is condemned for canals or roads or public works.

WATER—HOW CLOSE TO INDIVIDUAL ENTRY

Idaho, Utah, New Mexico—Company is to deliver water within ½ mile of each entry, regardless of acreage of entry.

Wyoming—Practice under contracts now in force varies—from ½ mile to 3 miles from each 160-acre subdivision. On future segregations, companies will be required to bring water to boundary line of each tract entered.

Colorado—Some contracts require water to be brought within three miles of entry. In future contracts, companies will be required to deliver water within one-half mile of each 160-acre subdivision.

Montana—Water to be brought within one-half mile of each 160-acre subdivision.

Oregon—"Water shall be measured at or within one-half mile of the place of intended use, and delivered to lands of each settler at the highest practicable point."

MEASUREMENT—DELIVERY—AND DISTRIBUTION OF WATER

These matters are governed largely by local statutes and practices in each State. The only States in which specific mention of the subject is made in Carey Act Statutes or Contracts are as follows, viz.:

Montana—"Water to be delivered where sub-laterals leave main laterals. Company may serve water by rotation."

Oregon—"Water to be measured one-half mile from place of use. Company may serve water by a system of rotation upon ten days' notice, under such reasonable rules as may be approved by the Board. All necessary gates, etc., for taking water at point of delivery to be installed by company at settler's expense."

In all cases where water is not to be delivered at the boundary line of the settler's land, the settler himself must bring it to his land, and, as a matter of course, must construct all necessary ditches upon his land.

DUTY OF WATER (i. e., AMOUNT TO BE DELIVERED TO SETTLERS)

The "duty" of water depends upon many factors—soil, climatic conditions, natural precipitation, length of irrigation season, and the character of crops to be grown.

Idaho—Usually fixed at 1-80 of a cubic foot per acre—per second—equivalent, in practice, to three acre feet during the irrigation season (enough to cover each acre to a depth of three feet.)

Wyoming—1-80 cubic foot per acre, per second—in technical language "1-80 second foot."

Colorado—Varying from 1-100 to 1-80 cubic feet per acre.

Utah—Varying from one and one-half to two "acre feet," during irrigation season.

Montana—At present, 1-100 cubic foot to the acre when served from direct flow of stream—when from reservoirs, varying from one and one-half to one and three-fourths acre feet.

Oregon—Varying from two to two and one-half acre feet. Only contract now in force provides for "enough water from April 1 to November 1," and, specifically, for "1 8-10 acre feet between May 23 and August 20."

New Mexico—Varying from one and one-half to three acre feet per season—according to location and amount of rainfall—maximum in any case 1-70 cubic foot per acre.

WASTE OF WATER—POLLUTION OF IRRIGATION WATER

Prohibited by "Irrigation Statutes" of all States.

IRRIGATION SEASONS

In all States prescribed in "Irrigation Statutes," by local customs, or defined in contract between State and company.

Idaho and Wyoming—Varying between May 1 and October 15, depending upon climatic conditions.

Oregon—One contract now in force specifically calls for delivery of water between April 1 and November 1.

New Mexico—Contracts between company and settler define, specifically, the dates between which water is to be delivered.

RIGHT OF WAY FOR SETTLER'S LATERALS

In all States a right of way is granted the settler to bring his laterals over an intervening entry, should it be the only practical way to reach his land. It is expected that this privilege will be guarded somewhat. Should any controversy

arise in this connection, an investigation will be made by the State Engineer, who will designate the most feasible route for the ditch. As a matter of course, where company's contract calls for delivery of water at settler's land, this question would not arise—the company, in any case, having right of way over entire segregation.

RAILROAD RIGHT OF WAY

Idaho and Wyoming—"Where railroad right of way has been granted prior to the settler's final proof, a rebate for the acreage involved is allowed against the water contract."

Utah—"No rule but equity."

Montana—No rebate allowed.

In no case is a rebate allowed against the cost of the land.

RIGHTS OF WAY FOR ROADS

Usually supposed to be granted along section and half-section lines, without recourse. The information herein contained should not be accepted as governing in all cases. The settler on each project must determine the exact status himself. This subject is specifically mentioned in contracts in force in two states, viz.:

Montana—Contract between State and company provides that all entries and patents for Carey Act Lands shall be made subject to right of way, without compensation, for roads upon all exterior section lines, and for other roads, not exceeding sixty feet in width, as the company may request; the location, and the necessity therefor, to be subject to approval of the Board before the lands are patented by the State.

Oregon—Reservations in settler's contract, for roads. (See "Contract between Company and Settler—Oregon.")

In other States:

Idaho—Roads built upon petition by settlers to County Commissioners.

Wyoming—Roads are established by the County Commissioners, when deemed necessary, upon petition of parties interested. Rights of way may be condemned, if needed.

Colorado—Settlers apply to County Commissioners for roads.

Utah—County Commissioners have full power in the matter of roads.

New Mexico—All section lines are road lines by order of government special agents, no Territorial Act covering this point..

MISCELLANEOUS

(a) Domestic and Stock Water to be Supplied by Company. Delivery of Water by Rotation.

(b) Installment of Headgates and Measuring Devices—By Whom Effected, and at Whose Expense.

(c) Responsibility of Company for Damage due to leakage, or breakage, of Company's Canals. Proration of Water in Case of Shortage.

It is impossible to make any definite statement touching upon these features that would fit every case. Should the necessity for an inquiry arise, it would be a matter to be determined by, or for, the settler himself. In many cases, any, or all, of these situations would never arise, and a discussion of them would be purely academic. In other cases the questions are answered by law or custom, or by the specific features of the contract governing.

PART IV

Taxation—Schools—Citizenship—Rights of Women—Liquor Option—Miscellaneous Taxation

Idaho—Approximate valuation of cultivated lands with permanent and paid-up water rights, from $50.00 to $125.00 per acre. Land valuations, including water rights, are taxed together. "Carey Act" lands are listed for taxation upon final proof being made. Improvements are listed separately from land valuation and before final proof.

Wyoming—No tax, or assessment, can be placed upon "Carey Act" lands until patent has issued from the federal government to the state and from the state to the settler. Houses and other improvements upon "Carey Act" **claims** are subject to taxation. When finally taxed, the lands are usually assessed, during the first year, at $5.00 per acre, but this amount is increased as the payments made by the settler increase his actual interest in the land.

Colorado—Valuations of "Carey Act" lands include the water rights, and range, with such permanent water rights, according to degree of cultivation and other factors, from $12.00 to $175.00 per acre. "Carey Act" lands (under present rules) are not taxable until the state has received United States patent. Improvements are always listed separately from land, at any time, regardless of final proof or patent upon the land.

Utah—Valuations include water rights, as in other states, although the valuation would not be fixed upon the basis of a "paid-up right," until full payment has been made for such "right." Lands are assessed for taxation as soon as final proof has been offered. Improvements are listed, and valued, separately, for purposes of taxation, and are assessed without reference to the ownership of the land upon which the improvements are situated. In other words, the settler's buildings, etc., are listed for taxation even before he has acquired patent to the land assessed. Valuation on all classes of property is assumed to be about fifty per cent of real value (at time of writing); the usual rate is two per cent outside of incorporated towns and cities, varying, as in other states, as between different counties, cities and school districts. The elected officers fix the rate annually.

Montana—Valuations of "Carey Act" lands include water rights. Lands are not taxable until patent is issued to settler. Improvements are listed separately from the land, and are taxed as soon as made. The approximate valuation of cultivated land is $5.00 to $10.00 per acre; the valuation of uncultivated land from fifty cents to $5.00 per acre.

New Mexico—Valuation of irrigated lands (which valuation, in every case, includes water rights) ranges from $50.00 to $500.00 per acre. Lands are not listed for taxation until patent has issued to settler, nor are permanent improvements, such as buildings, fences and other permanent fixtures, listed until patent has issued. Personal property, such as implements, stock, etc., is taxable at any time.

Nevada—The land is at present taxed to the owners as soon as it is proved up and a United States Patent granted, and the water is taxed to the Companies owning it. The taxing of the land and improvements is left largely to the assessor. Land cannot be taxed to the settler until final proof is made.

PROVISIONS FOR SCHOOLS

Idaho—School Districts—Boundaries indefinite and with varying number of families. Districts are created by county commissioners. Minimum number of children in district, ten. Legal school age, from six to twenty-one years. Funds available for school purposes, as in other "Public Land States," all funds or interest upon funds, derived from sale or lease of so-called "School Lands" (Sections 16 and 36 in each "township"—36 square miles), are restricted to school purposes. In addition to this fund there is a levy (in 1910) of five mills for school purposes. Special levies must be submitted to a vote of property owners in the district.

Wyoming—Boundaries of school districts are fixed by county superintendents of schools. Minimum number of children to district, five. Legal age, from six to eighteen years. Funds and interest upon funds derived from sale or lease of "School Lands" restricted to school purposes. Special taxation is subject to control of residents of districts. Wherever it is shown that there are five children of legal age, without school facilities, a district school may be established by the county superintendent.

Colorado—School districts must contain not less than nine square miles and not less than ten children of legal age (from six to twenty-one years). All revenues from "School Lands" restricted to school purposes. Special levies (at date of this writing) are limited to fifteen mills for third-class schools, and twenty mills for first-class and second-class schools.

Utah—Boundaries of school districts are fixed by county commissioners, subject to statutory provisions. Legal age, from six to eighteen years. The parents of fifteen children of legal age may demand a school, and the parents of twenty children within a district already established, if living two miles, or more, distant from the established school, may demand a separate school. Towns of 2,000, or more, inhabitants must maintain kindergarten schools for children between the ages of three and six. The statutes provide for compulsory attendance of pupils from six to fourteen years of age during at least twenty consecutive weeks out of the forty weeks of the school year. Utah has a grant of four sections in each township, as "School Lands," the revenue from which is restricted to school purposes, in addition to which there is (in 1910) a school tax of three mills, which is computed upon all property assessed in the state. Each county, also, has a school tax levied by the commissioners, which, together with the funds derived from the state, is distributed upon the basis of school population. Each school district, in addition, levies a tax for school purposes, through its board of trustees, and the board of education may levy a tax on all property of the district for its own uses. The tax-payers, who are qualified electors, may vote special taxes if necessary.

Montana—School districts are organized, upon petition to the county superintendent of schools, of the parents of not less than ten children between the ages of six and twenty-one, provided they live at a distance greater than two miles from a school house. All funds and the interest upon funds, derived from the sale or lease of sections 16 and 36 (School Lands), restricted to school purposes. The providing of special taxation for school purposes lies with the board of trustees of each school district, the limit of assessment being ten mills.

New Mexico—School districts are established upon petition to the county school superintendent, the requirement being that there be not less than twenty-five children (or others desiring education) between the ages of five and twenty-five years, within the district. A compulsory school law fixes the legal age of children at between seven and fourteen years. The revenue derived from "School

Lands" (after deducting cost of collection) is restricted to school purposes. In addition, a territorial levy of 3 mills and further special taxes of not to exceed fifteen mills, in rural districts, and not to exceed twenty mills in cities, may be assessed.

Nevada—School districts are sixteen miles square, or thirty-six miles square. Five is the minimum number for a district. Legal age of children, six to eighteen. School Trustees can raise money by special taxation for schools only, with the permission and aid of the Board of County Commissioners. All money raised from the sale of school land is restricted to school purposes.

CITIZENSHIP—RIGHT OF SUFFRAGE

Idaho—The period of residence in the state necessary to acquire the right to vote is established at six months—length of residence in the precinct at thirty days (immediately preceding an election).

Wyoming—Residence within the state for a period of at least twelve months is necessary to acquire the right to vote.

Colorado—Residence in the state, one year; in the county, ninety days, and in the precinct ten days, immediately preceding the election.

Utah—Residence in the state, twelve months; in the county, four months, and in the precinct, sixty days, preceding the election.

Montana—Residence in the state, twelve months; in the county, thirty days, preceding election.

Oregon—Residence in the state, six months.

New Mexico—Residence in the territory, six months.

Nevada—Voters must be six months in the state and thirty days in the precinct.

RIGHT OF WOMEN TO VOTE

Idaho—Women permitted to vote to the same extent as men.

Colorado—Women permitted to vote to the same extent as men.

Wyoming—Women (over twenty-one years of age) permitted to vote to the same extent as men.

Montana—All women have the right to vote at school district elections, either for school trustees, upon the issuance of school bonds, or upon any other question submitted by the trustees of a school district. Women who are taxpayers have the right to vote upon all questions submitted, in accordance to law, to "taxpayers" (as distinguished from "electors," who must be male persons).

Oregon—Women permitted to vote, in some instances, at school elections.

New Mexico—Women are not permitted to vote at any elections.

Nevada—Women are not permitted to vote in Nevada.

RIGHT OF WOMEN TO PURCHASE, TO HOLD AND TO SELL PROPERTY

Idaho, Wyoming, Colorado, Utah, Montana, Oregon, New Mexico and Nevada—Women are permitted to purchase, to hold and to sell property to the same extent as men.

LIQUOR OPTION LAWS

Idaho—Liquor option in force by counties, townships, or state at large.

Wyoming—No saloons may operate outside of incorporated towns. The county license is fixed at $1,000 and the town license is fixed by the councils—usually at $300.

Colorado—Liquor option in force by cities, wards or precincts.

Utah—Local communities, through county commissioners, city councils and town boards, have the power to license or to prohibit the manufacture, or sale, of intoxicating liquor.

Montana—Liquor option in force by counties. Elections may be ordered by the county commissioners, upon petition.

Oregon—Liquor option in force by counties.

New Mexico—No local option liquor laws. Precincts have the right to vote upon this question.

Nevada—There is no local option in force in Nevada.

PART V

Carey Act Projects Having Land Open To Entry, or Authorized to Sell Water Contracts:— January 1, 1911

The figures given indicate, in every instance, the total acreage of "Carey Act" lands under the various projects, as segregated, or open to entry, at this date, and disregarding state or private lands, or lands entered under United States Public Land Laws, prior to the segregation of the "Carey Act" lands. They are not conclusive as to the amount of land remaining unentered, which may be great or small. In many cases "relinquishments" of entered lands, or lands which have been "proven up," or patented, may be purchased from original entrymen.

The prices named represent the original prices established by the state for water-rights and apply to the "Carey Act" lands under the various projects, only

The price exacted by the state for the land must, in all cases, be considered in connection with the cost of water rights.

To avoid correspondence, which, at some future time, might be unnecessary and troublesome, the suggestion is offered, in the case of states having many projects open to entry, that the homeseeker write to the state department or official, indicated in connection with the list of projects, before corresponding with the companies directly. For information regarding specific projects inquiries should be directed to the companies, themselves. Residents of the eastern states will find it convenient and expeditious to correspond with the eastern offices of companies possessing such facilities. Where such offices are maintained, they are referred to in connection with the companies' home offices. For information regarding the resources of the state at large, inquiries should be addressed to the department or officials indicated in the list appended.

IDAHO

(The total amount of land granted by Congress to the State, under the provisions of the original act and of amendments, up to May 1, 1910, is 3,000,000 acres. The information herewith presented represents conditions in Idaho existing on March 1, 1911.

Emmett Bench Canal Company (formerly Canyon Canal Co.) Emmett, Idaho; 5,829 acres in Canyon County; price of water rights, $30 per acre.

Huston Ditch Co., Darlington, Idaho; 1,884 acres in Blaine and Custer counties price of water rights, $35 per acre.

Portneuf-Marsh Valley Irrigation Co., Downey, Idaho; 12,222 acres in Bannock County; price of water rights, $35 per acre.

Twin Falls-Oakley Land & Water Co., Milner, Idaho; 45,000 acres in Cassia County; price of water rights, $65 per acre.

Kings Hill Extension Irrigation Co., Boise, Idaho; 9,455 acres in Elmore County; price of water rights, $65 per acre.

Twin Falls Salmon River Land & Water Co., Milner, Idaho; 80,000 acres in Twin Falls County; price of water rights, $40 per acre.

The Marysville Canal & Improvement Co., Boise, Idaho; 6,782 acres in Fremont County; cost of water rights, $20 per acre.

American Falls Canal & Power Co., Blackfoot, Idaho; 57,306 acres in Bingham and Blaine counties; cost of water rights, $40 per acre.

West End Twin Falls Irrigation Co., Des Moines, Iowa; 46,016 acres in Twin Falls and Owyhee counties; price of water rights, $40 per acre.

Big Lost River Irrigation Co., Boise, Idaho; 80,000 acres (approximately) in Blaine, Bingham and Fremont counties; price of water rights, $40 per acre.

Kings Hill Irrigation & Power Co., Boise, Idaho; 12,000 acres (approximately) in Twin Falls and Owyhee counties; price of water rights, $65 per acre.

Twin Falls North Side Land & Water Co., Milner, Idaho; total of three segregations, 235,000 acres; in Lincoln and Elmore counties; price of water rights, $30, $35 and $45 per acre. (There is also a considerable amount of deeded land under this project.) This company has also 3,681 acres in Cassia and Twin Falls counties and 10,520 acres in Lincoln county; price of water rights not determined.

Twin Falls Canal Co., Office Twin Falls; 244,000 acres in Twin Falls County; cost of water rights, $25 per acre. (This is the segregation of the original "Twin Falls Land & Water Company," which has been deeded and transferred to the "Twin Falls Canal Company"—the Settlers' organization. It is the project commonly known as the "Twin Falls South Side project.")

Idaho Irrigation Co., Richfield, Idaho; 157,721 acres in four segregations, as follows, viz.: Richfield tract, 40,821 acres; in Lincoln and Blaine counties; price of water rights, $35 per acre; North Shoshone and North Gooding tracts, 55,019 acres in Lincoln County; price of water rights, $35 per acre; South Gooding tract, 14,957 acres in Lincoln County; price of water rights, $35 per acre; Dietrich tract, 46,924 acres in Lincoln County; price of water rights, $50 per acre.

WYOMING

(The total amount of land allowed this State by the Federal Government up to May 1, 1910, is 2,000,000 acres.)

It is not customary to have land drawings, as in the case of many of the other Western States, as the bulk of the settlement is accomplished through private contract with the individual. After the land is open for settlement, it is the case of "first come, first served." The companies are, however, authorized to conduct land drawings, under jurisdiction of the State Land Board, if requested, if they so desire.

It is suggested that inquiries of a general nature, about Carey Act projects be directed to "R. L. Fuller, Commissioner of Public Lands, Cheyenne, Wyoming."

North Laramie Land Co., Uva, Laramie County; 4,133 acres in Laramie County; $37.50 per acre.

Sahara Ditch Company, Buffalo, Johnson County; 8,000 acres in Johnson County; $40 per acre.

James Lake Irrigation Co., Laramie, Albany County; 14,563 acres in Albany County; $50 per acre.

East Fork Irrigation Co., Boulder, Fremont County; 4,901 acres in Fremont County; $30 per acre.

Cody Canal Association, Cody, Big Horn County; 11,111 acres in Big Horn County; $40 per acre.

Boulder Lake Canal & Reservoir Co., Boulder, Fremont County; 6,221 acres in Fremont County; $20 per acre.

Hanover Canal Co., "Hanover Canal," Worland, Big Horn County; 10,682 acres in Big Horn County; $30 per acre.

Big Horn Basin Colonization Co., "The Sidon Canal," Lovell, Big Horn County; lands in Big Horn County; $30 per acre.

Lakeview Irrigation Co., "The Hammitt Ditch," Cody, Big Horn County; 7,000 acres in Big Horn County; $50 per acre.

North Platte Canal & Colonization Company, Wyncote, Laramie County; 14,424 acres in Laramie County; $30 per acre.

French Creek Irrigation & Development Co., Encampment, Carbon County; 18,869 acres in Carbon County; $35 to $50 per acre.

Big Horn County Irrigation Co., "Big Horn County Canal," Basin, Big Horn County; 20,000 acres in Big Horn County; $40 to $50 per acre.

North Platte Valley Irrigation Co., "LaPrele Ditch," Douglas, Converse County; 60,000 acres in Converse County; $30 to $50 per acre.

Wheatland Industrial Co., Offices Cheyenne and Wheatland, Laramie County, Wyoming; 33,154 acres in Laramie County; $45 per acre.

The Big Horn Basin Development Co., "The Bench Canal," Office Burlington, Big Horn County; 11,251 acres in Big Horn County; price of water rights, $40 per acre.

Lovell Irrigation Co., Lovell, Big Horn County; 11,320 acres in Big Horn County; $30 per acre. This company furnishes water also to 5,724 acres under the "Elk Canal."

Wyoming Land & Irrigation Co., "Shell Creek Canal," Basin, Big Horn County; Eastern Office, 1422 Marquette Building, Chicago; 52,000 acres in Big Horn County; $50 per acre.

Eden Irrigation & Land Co., Rock Springs, Sweetwater County; Eastern Office, 421 First National Bank Building, Chicago, Ill.; 100,000 acres in Sweetwater County; $30 per acre.

A number of other projects are in various stages of development at this time.

COLORADO

The method of opening lands to entry depends upon the wishes of the company. Lands may be opened by public drawing or by private entry, being subject to entry after a specified date, set forth in a notice of thirty days' publication.

Inquiries regarding Carey Act lands generally should be directed to "The State Board of Land Commissioners, Denver, Colorado."

The Two Buttes Irrigation & Reservoir Co., Lamar, Colorado; 22,000 acres in Prowers and Baca counties; cost of water rights, $35 per acre.

Routt County Development Co., Office care W. R. Given, 1742 Welton Street, Denver; 38,000 acres in Routt County; cost of water rights, $35 per acre.

The Toltec Canal Co., Office care Henry M. Clark, 322 Cooper Building, Denver; 12,000 acres in Conejos County; cost of water rights, $40 per acre.

The Colorado Land & Water Co., care I. B. Melville, 205 Symes Building, Denver; 16,000 acres in Laplata County. Cost of water rights, $45 per acre, in addition to which there is an extra charge of $1.25 per acre for the land in payment to the Ute Indians.

A number of other projects in the State are in varying stages of development.

UTAH

Inquiries with reference to Carey Act projects should be addressed to "The State Board of Land Commissioners, Salt Lake City, Utah."

Oasis Land & Irrigation Co., Salt Lake City; 43,120 acres in Millard County; cost of water rights, $45 per acre.

Beaver Land, Irrigation & Power Co., Office Salt Lake City; 48,227 acres in Beaver County; cost of water rights (not announced at this time). There is a large quantity of deeded and state land in this project, in addition to the Carey Act lands listed above.

There are several other large projects in this state in various stages of development, not open to entry.

MONTANA

Inquiries regarding Carey Act projects should be addressed to "The Carey Land Act Board, Helena, Montana."

Conrad Land & Water Co., Valier; 103,000 acres in Teton County; $40 per acre.

Glass-Lindsay Land Co., Big Timber; 63,750 acres in Sweetgrass County; $40 to $50 per acre.

Billings Land & Irrigation Co., Billings; 15,378 acres in Yellowstone County; cost of water rights, $50 per acre.

OREGON

Inquiries regarding Carey Act lands should be addressed to "The Desert Land Board, Salem, Oregon."

Central Oregon Irrigation Company, Portland; successor to **Deschutes Irrigation & Power Co.**, Bend; 100,000 acres in Crook County; cost of water rights, $40 per acre. "Waste land" is charged for at the rate of $2.50 per acre.

A number of other large projects are in various stages of development, but not yet open for entry.

NEW MEXICO

There are several projects in New Mexico in varying stages of completion, but none of them, as yet, is open to entry. Information in regard to these may be obtained by inquiry of H. B. Hening, Secretary, the New Mexico Bureau of Information, Albuquerque, New Mexico.

SOUTH DAKOTA

No segregations under the Carey Act had been applied for up to March 1, 1911.

NEVADA

Several applications have been made for Carey Act segregations, none of which has been approved by the Department of the Interior. Information with regard to these may be procured by addressing C. E. Deady, State Land Register, Carson City, Nevada.

WASHINGTON

No segregations applied for have been granted and no applications are pending.

BUREAUS OF IMMIGRATION OR OTHER OFFICIAL BODIES FOR THE DISSEMINATION OF AUTHENTIC INFORMATION REGARDING THE RESOURCES OF THE STATE GENERALLY

Idaho

Bureau of Immigration, Labor and Statistics.
Address—Boise.
Jos. P. Fallon, Commissioner.

Wyoming

Department of Immigration.
Address—Cheyenne.

Utah

Bureau of Statistics.
Address—Salt Lake City.
H. T. Haines, Commissioner.

Montana

State Bureau of Agriculture, Labor and Industry.
Address—Helena.
J. H. Ball, Commissioner.

New Mexico

Bureau of Immigration.
Address—Albuquerque.
H. B. Hening—Secretary.

Nevada

State Publicity and Industrial Commission.
Address—Carson City.
Samuel P. Davis, Chairman.

PART VI

The Federal "Carey Act"—Federal Regulations and Forms—State Forms

THE "CAREY ACT" (FEDERAL STATUTE) AND AMENDMENTS

Section 4 of the act of August 18, 1894, entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1895, and for other purposes" (28 Stat., 372-422), authorizes the Secretary of the Interior, with the approval of the President, to contract and agree to patent to the states of Washington, Oregon, California, Nevada, Idaho, Montana, Wyoming, Colorado, North Dakota, South Dakota and Utah, or any other state, as provided in the act, in which may be found desert lands, not to exceed 1,000,000 acres of such lands to each state, under certain conditions.

The text of the act is as follows:

Sec. 4. That to aid the public land States in the reclamation of the desert lands therein, and the settlement, cultivation and sale thereof in small tracts to actual settlers, the Secretary of the Interior with the approval of the President, be, and hereby is, authorized and empowered, upon proper application of the State, to contract and agree, from time to time, with each of the States in which there may be situated desert lands as defined by the act entitled "An act to provide for the sale of desert land in certain States and Territories," approved March 3, 1877, and the act amendatory thereof, approved March 3, 1891, binding the United States to donate, grant and patent to the State free of cost for survey or price such desert lands, not exceeding one million acres in each State, as the State may cause to be irrigated, reclaimed, occupied, and not less than twenty acres of each one-hundred-and-sixty-acre tract cultivated by actual settlers, within ten years next after the passage of this act, as thoroughly as is required of citizens who may enter under the said desert land law.

Before the application of any State is allowed or any contract or agreement is executed or any segregation of any of the land from the public domain is ordered by the Secretary of the Interior, the State shall file a map of the said land proposed to be irrigated, which shall exhibit a plan showing the mode of the contemplated irrigation and which plan shall be sufficient to thoroughly irrigate and reclaim said land and prepare it to raise ordinary agricultural crops and shall also show the source of the water to be used for irrigation and reclamation, and the Secretary of the Interior may make necessary regulations for the reservation of the lands applied for by the States to date from the date of the filing of the map and plan of irrigation, but such reservation shall be of no force whatever if such map and plan of irrigation shall not be approved. That any State contracting under this section is hereby authorized to make all necessary contracts to cause the said lands to be reclaimed, and to induce their settlement and cultivation in accordance with and subject to the provisions of this section; but the State shall not be authorized to lease any of said lands or to use or dispose of the same in any way whatever, except to secure their reclamation, cultivation and settlement.

As fast as any State may furnish satisfactory proof according to such rules and regulations as may be prescribed by the Secretary of the Interior, that any of said lands are irrigated, reclaimed and occupied by actual settlers, patents shall be issued to the state or its assigns for said lands so reclaimed and settled; provided, that said state shall not sell or dispose of more than one hundred and sixty acres of said lands to any person, and any surplus of money derived by any state from the sale of such lands in excess of the cost of their reclamation shall

be held as a trust fund or and be applied to the reclamation of other desert lands in such state. That to enable the Secretary of the Interior to examine any of the lands that may be selected under the provisions of this section, there is hereby appropriated out of any moneys in the treasury, not otherwise appropriated, $1,000.

FIRST AMENDMENT

In the act making appropriations for sundry civil expenses of the government for the fiscal year ending June 30, 1897, and for other purposes, approved June 11, 1896, there is, under the head of "appropriation for surveying public lands," the the following provisions:

That under any law heretofore or hereafter enacted by any State provided for the reclamation of arid lands, in pursuance and acceptance of the terms of the grant made in section four of an act entitled, 'An Act Making Appropriation for the Sundry Civil Expenses of the Government for the Fiscal Year Ending June 30, 1895,' approved August 18, 1894, a lien or liens is hereby authorized to be created by the state to which such lands are granted and by no other authority whatever, and when created shall be valid on and against the separate legal subdivisions of land reclaimed for the actual cost and necessary expenses of reclamation and reasonable interest thereon from the date of reclamation until disposed of to actual settlers; and when an ample supply of water is actually furnished in a substantial ditch or canal, or by artesian wells or reservoirs, to reclaim a particular tract or tracts of such lands, then patents shall issue for the same to such state without regard to settlement or cultivation; provided, that in no event, in no contingency and under no circumstances shall the United States be in any manner directly or indirectly liable for any amount of any such lien or liabilities in whole or in part.

SECOND AMENDMENT

The limitation of time in the above quoted section four was modified by section three of the act entitled, "An Act Making Appropriations for Sundry Civil Expenses of the Government for the Fiscal Year Ending June 30, 1902, and for Other Purposes," approved March 3, 1901 (31 Stat. 1133–1188), which provides as follows:

Sec. 2. That section four of the act of August 18, 1894, entitled, "An Act Making Appropriations for Sundry Civil Expenses of the Government for the Fiscal Year Ending June 30, 1895, and for other purposes," is hereby amended so that the ten years' period in which any state shall cause the lands applied for under said act to be irrigated and reclaimed, as provided in said section as amended by the act of June 11, 1896, shall begin to run from the date of approval by the Secretary of the Interior of the State's application for the segregation of such lands; and if the state fails within the said ten years to cause the whole or any part of the lands so segregated to be so irrigated and reclaimed, the Secretary of the Interior may, in his discretion, restore such lands to the public domain.

AMENDMENT OF MARCH 15, 1910

To overcome the difficulty of contending with speculative filings upon land while being surveyed for the purpose of applying for its segregation, the following amendment was adopted March 15, 1910:

An Act authorizing the Secretary of the Interior to make temporary withdrawals of public lands for certain purposes.

That to aid in carrying out the purpose of section four of the Act of August 18, 1894, entitled, 'An Act making appropriations for sundry civil expenses of the government for the fiscal year ending 1895, and for other purposes, it shall be lawful for the Secretary of the Interior, upon application by the proper officer of any state or territory to which said section applies, to withdraw temporarily from settlement, or entry, areas embracing lands for which the state or territory proposes to make application under said section, pending the investigation and survey preliminary to the filing of maps and plats and application for segregation by the state or territory: Provided, That if the state or territory shall not pre-

sent its application for segregation and maps and plats within one year after such temporary withdrawal, the lands so withdrawn shall be restored to entry as though such withdrawal had not been made.

Other amendments extend the provisions of the act to the territories of New Mexico and Arizona and to portions of the Ute and Southern Ute Indian Reservations in southwestern Colorado, and provide for further grants (exceeding one million acres each) to the states of Idaho and Wyoming.

FEDERAL REGULATIONS

1. The states are allowed ten years from the date of the approval of their application for segregation, to complete the reclamation of the lands. The Secretary of the Interior may, at his discretion, extend this time for a further period of not to exceed five years.

2. The lands selected must be desert lands as defined by the acts of March 3, 1877, and March 3, 1891, and the term "Desert Lands" excludes lands which produce native grasses sufficient in quantity to make a crop of hay in usual seasons, lands which will produce an agricultural crop of any kind in amount sufficient to make the cultivation reasonably remunerative, and lands which will support a natural growth of trees.

Lands occupied by bona-fide settlers, and lands containing valuable deposits of coal or other minerals are not subject to selection. (Amended as to Coal Lands, see Appendix.)

3. Before the application of any state is allowed, or any contract is executed, or any segregation of land is ordered, the state must file a map of the land selected, which shall exhibit a plan showing the mode of contemplated irrigation and the source of the water, and must submit data showing that the proposed plan will be sufficient thoroughly to irrigate and reclaim the land and to prepare it to raise ordinary agricultural crops, for which purpose a statement of the state engineer, showing the amount of water available, is needed. The state must, also, submit all further information necessary to enable the Department of the Interior to judge of the practicability of the plan.

Upon the filing of the map by the state, showing the lands selected and the plan of irrigation, such lands will be withheld from other disposal until final action is had thereon by the Secretary of the Interior.

If such final action be a disapproval of the map and plan, the lands selected shall, without further order, be restored to the public domain. (See regulations under act of March 15, 1910, below.)

4, 5. 6, 7, 9. Regulations governing subject of maps, field notes, lists of lands and contracts.

8. Regulations governing rights of way over public lands.

10, 11, 12, 13, 14, 15, 16, 17, 18. Regulations governing the state's application for patent and their disposal by the Department of the Interior. (Amended as to Coal Lands, see Appendix.)

REGULATIONS ADOPTED PURSUANT TO AMENDMENT OF MARCH 15, 1910

1. Under the provisions of this amendatory act public lands of the United States may be temporarily withdrawn upon proper application by a beneficiary State or Territory that proper surveys may be prepared and investigation made preliminary to the filing of application by such State or Territory for the segregation of such lands under the Carey Act.

If such application is not filed within one year from the date of withdrawal, the lands so withdrawn will, as directed by the act, be immediately restored to entry.

No provision is made for the extension of such a temporary withdrawal.

2. To obtain the benefits of this amendatory act, the State or Territory, through its proper official, will be required to file in the local land office in the land district within which the lands sought to be withdrawn lie, an application therefor (see appended Form B), which shall set forth the name of the individual or corporation proposing to reclaim the lands; that all of the forms and conditions imposed by the state law upon such proposer prior to segregation have been complied with; that from the showing made by the proposer (or state other source of information) it is believed that sufficient water to irrigate the whole of the lands asked to be withdrawn, over and above prior appropriations, is available; and that the proposer has either acquired title to such water or applied for the same, and that the lands are desert in character.

Appended to the application should be a list of the lands asked to be withdrawn. If the lands are unsurveyed, the fact should be set forth, together with a statement that an application for the survey thereof has been filed in the office of the surveyor-general.

3. Accompanying such application should be filed an affidavit (see appended Form C), based upon personal examination, that the lands sought to be withdrawn are desert in character, as contemplated by the Carey Act, and are nonmineral. This affidavit should be made either by the proposer, his or its engineer, or by the state or territorial engineer, or one of his assistants.

4. Where the lands sought to be withdrawn are situated in more than one land district, a list must be filed in each district, describing the lands in that district.

5. Upon the filing of such application the register will at once note the same upon his records, and will thereafter reject all applications to enter, purchase, or select any of such lands, excepting when settlement or application to enter, purchase, or select prior to the date of filing of the State's application is alleged or disclosed of record. He will then at once transmit the application to this office for further action, first noting thereon the date of filing over his written signature.

6. Within three months after the date of filing the application for withdrawal in the local office the State must file a corroborated affidavit by the proposer, his or its engineer, or the state engineer, that the work of surveying and laying out the proposed irrigation system has been actually commenced in the field and is being energetically prosecuted. This affidavit should show the work accomplished and the result.

In default of such showing by the State, the withdrawal will be promptly revoked.

7. In the event that any of the tracts withdrawn are found to be above the proposed irrigation works, or for any other reason not susceptible of irrigation, the fact and description of the nonreclaimable land by smallest legal subdivisions should be at once communicated to this office, that they may be relieved from the withdrawal.

8. If at any time after withdrawal it is shown that the State is not energetically prosecuting the investigation and survey of the lands, that the same are not reclaimable by the proposed system of reclamation, are not desert in character, or for any reason are not subject to the provisions of the Carey Act, or that the proposer is not proceeding in good faith, the withdrawal will be at once revoked.

9. The one year mentioned in the act as the period of withdrawal will commence to run from the date of the filing of the application for withdrawal in the local land office.

"FORMS" PRESCRIBED BY FEDERAL REGULATIONS

Form 1. Affidavit of engineer who prepared the map and plan of irrigation.
Form 2. Affidavit of state official authorized to make selections of "Carey Act" lands.
Form 3. Certificate of selecting agent.
Form 4. Affidavit of register and receiver of United States Land Office.
Form 5. Contract between United States and the state.
Form 6. Forms for verification and publication of "Lists for Patent."
Form 7. Affidavit of state engineer as to sufficiency of water supply.
Form 8. Forms for published notice of state's request for patent.
Forms B and C. Under amendment of March 15, 1910. Statements of Selecting Agent and Engineer of State or Territory making application as to mineral lands (see also Appendix).

"FORMS" PRESCRIBED BY THE STATES

(A.) Forms prescribed for use between companies and states (as adopted by the state of Wyoming).
Form 1. Request and proposal for the segregation of lands (to be addressed to the state board of land commissioners).
Form 2. Typical specifications.
Form 3. Form for affidavit of aridity.
Form 4. Certificate of the engineer making survey (being form 1 of federal regulations).
Form 5. Certificate of the commissioner of public lands (being form 2 of federal regulations).
Form 10. General form of contract between the company and settler.
Form 12. Form agreement of escrow to be used when contracts with settlers are executed before water is ready for delivery.
Form 13. Form of surety company bond permitted to be furnished by Carey Act companies.
Form 14. Form for application for right of way over state lands.

(B.) FORMS PRESCRIBED FOR USE BETWEEN COMPANIES AND SETTLERS (AS ADOPTED BY THE STATE OF IDAHO).

All affidavits to be subscribed and sworn to before the officer before whom entry or final proof is made.

FORM A.—APPLICATION TO ENTRY

Under the provisions of the act providing for the acceptance of arid lands by the state of Idaho.

State of Idaho, }
County of..... } ss.

I, ..., of ..... postoffice, in the county of ....., and State of Idaho, being duly sworn, on oath, depose and declare:

That I am a native born (or naturalized) citizen (1) of the United States (or have declared my intention to become a citizen of the United States), of the age of .... years and a resident of ....., and by occupation .....
.....

That I intend to reclaim a tract of land under the provisions of chapter two of an act of the Legislature of the State of Idaho, entitled "An Act to Provide for a State Engineer, Defining His Duties and Regulating His Compensation, and to Provide for the Acceptance by the State of Idaho from the United States of Certain Lands, and to Provide for the Reclamation, Occupation and Disposal of the Same," approved March 2, 1899.

That the land which I intend to enter and reclaim is situated in the County of ..... in the State of Idaho, and is described as follows: The ..... of Section No....., Township No....., Range No....., containing ..... acres.

I further depose and say that I desire to make entry of said land for the purpose of actual reclamation, cultivation and settlement in accordance with the act of Congress in relation to the selection of desert lands by certain states, approved August 18, 1984, and the laws of the State of Idaho supplemental thereto, and that I have never received the benefit of the provisions of such act of Congress, or of the act providing for the acceptance of arid lands by the State of Idaho, approved March 2, 1899, to an amount greater than 160 acres, including the number of acres specified in the within application, except (2) .....

And I present herewith a certified copy of a contract, made and entered into with ....., wherein I have acquired a proportionate interest in the canal of said ..... together with all rights and franchises attached thereto, representing a sufficient carrying capacity to provide water for the complete irrigation and reclamation of the lands herein described.

This application for entry is made subject to all grants or reservations for right of way for the said canals, laterals or reservoirs of the said irrigation system over or upon the lands described herein, the said grants or reservations being shown upon the official plats upon which this entry is recorded.

Witness my hand and seal, this ..... day of ....., A. D. 191..

.....

In presence of .....

1. In case the party has been naturalized, a certified copy of his certificate of his naturalization must be filed, the words or phrase in the parenthesis to be erased, or the words not used to be erased.

2. If the applicant has at any time previous entered any land under the provisions of this act, he shall so state in his application, giving a description of it and the nature and location of said land.

State of Idaho, }
County of ..... } ss.

I hereby certify that the foregoing affidavit was read to the applicant in my presence, before he signed his name thereto; that said applicant is to me personally known (or he has been satisfactorily identified before me by .....), and I fully believe him to be a credible person and the person he represents himself to be, and that this affidavit was sworn to before me on the ..... day of ....., A. D. 191..., at my office.....

.....

(Seal)

Notary Public for ..... County, Idaho, and Representative of the State Board of Land Commissioners.

FORM B.—ORIGINAL CERTIFICATE OF ENTRY

Entry No.....

State Board of Land Commissioners

.....Idaho,

....., 191..

It is hereby certified that, under the provisions of an act of the Legislature of the State of Idaho, approved March 2, 1899, entitled "An Act to Provide for a State Engineer, Defining His Duties and Regulating His Compensation, and to Provide for the Reclamation, Occupation and Disposal of the Same,"..... whose postoffice address is ..... appeared before me this .....day of....., 191.., and made application to enter the following described land, to wit:

....., Tp....., R..... of Boise Meridian, and that he has paid to the State of Idaho, through me, the sum of..... dollars, being at the rate of twenty-five (25) cents per acre.

(Seal)

.....

Notary Public for ..... County, Idaho, and Representative of the State Board of Land Commissioners.

Boise, Idaho, ..., 191..

This is to certify that at a meeting of the State Board of Land Commissioners, duly held in the office of said Board, this ..... day of....., 191.., the application referred to in the foregoing certificate was examined and the same is hereby approved.

.....
Governor and President of the State Board of Land Commissioners.

Attest:

.....
Register State Board of Land Commissioners.

FORM C.—NOTICE FOR PUBLICATION

Companies' Notice that Water Ready for Delivery.

To Settlers Under the ..... Canal:

Notice is hereby given in pursuance of the provisions of an act of the Legislature of the State of Idaho, commonly known as the Carey Act, approved March 2, 1899, that ..... is now prepared to deliver water for irrigation from said canal system to anyone who may have entered, under the provisions of said act, any of the following described land, to wit:

.....
.....
.....
.....
.....
.....
(Name of Company.)
By.....

FORM D.—PROOF OF CULTIVATION
ENTRYMAN'S AFFIDAVIT

I, ..., of ....., having on the ..... day of ....., 191.., made Entry No..... under the provisions of an act of the Legislature of the State of Idaho commonly known as the "Carey Act," of the ..... of section ..... in township ..... of range ....., containing ..... acres, to be irrigated by the ....Canal, that having on the ..... day of ....., 191.., received notice by publication that water was available for use from said canal, do solemnly swear that during the ..... year, after receiving such notification, that is after the ..... day of ....., 191.., and before the ..... day of ....., 191.., I cultivated by irrigation ..... acres of land embraced in said entry, which is more than one .... of the area of such tract; that the crops now grown consist of .....

.....
Entryman.

Sworn to and subscribed before me this ..... day ..... 191....

Notary Public for ..... County, Idaho, and Representative of the State Board of Land Commissioners

This proof should be made before the representative of the State Board of Land Commissioners, and by him transmitted to the Board at Boise.

FORM E.—PROOF OF CULTIVATION

Deposition of Two Witnesses in This Form to be Taken Separately

I, ..., of ....., do solemnly swear that I am well acquainted with ..... of section ..... township ..... of range .....containing ..... acres, embraced in entry No. ....., made under the provisions of an act of the legislature of the State of Idaho, commonly known as the "Carey Act," and that since ..... day of ....., 191.., and before the ..... day of .....,

191.., ...acres, one ..... of the land embraced in said entry were cultivated by irrigation, that the crops consist of ..... and that the water for such irrigation was obtained from the ..... Canal.

.....
Witness.

Sworn to and subscribed before me this .....day of ....., 191..

.....
Notary Public for ..... County, Idaho, and Representative of the State Board of Land Commissioners

FORM F.—NOTICE FOR PUBLICATION

Final Proof

I,....., of ....., who made entry No....., under the provision of an act of the legislature of the State of Idaho, commonly known as the "Carey Act," approved March 2, 1899, which embraces ....., of section ....., township ..... of range ....., do hereby give notice of my intention to make final proof to establish my claim to the land above described, and that I expect to prove that I have resided on, reclaimed and cultivated said land as required by law before ..... at ...., on ....., 191.., by two of the following witnesses:

.....
Entryman.

..... of .....
..... of .....
..... of .....
..... of .....

The above notice properly filled out and signed by the entryman, together with the fee for its publication, shall be sent to the Secretary of the State Board of Land Commissioners at Boise, who will authorize its publication during the four weeks preceding the date set for making proof, in the newspaper designated by said entryman.

FORM G.—FINAL PROOF

Deposition of Entryman

Entry No....., made under the provisions of an act of the legislature of the State of Idaho, commonly known as the "Carey Act," approved March 2, 1899.

I ....., being duly sworn, depose and say that I am ..... years of age. a ..... by occupation, that my residence is ..... and postoffice address ..... and am a ..... citizen of the United States; that on the ..... day of ....., 191.., I made entry No....., embracing ..... of section..... township ....., of range ....., containing .....acres, which, together with other lands entered by me under the provisions of this act, amount to ..... acres, such other lands being described as follows:..... .....; that the lands embraced in this entry are susceptible of irrigation and reclamation from the ..... Canal; that I hold by purchase ..... water rights or shares in said canal system which represent a carrying capacity in said canal of ..... cubic feet per second, and the right to conduct therein for the use on each acre of the tract embraced within this entry of not less than ..... acre feet of water during each and every irrigating season, which quantity is sufficient for the complete reclamation of said tract; such rights or shares also representing a proportionate interest or ownership in said ..... Canal and all its rights and franchises; such rights and interests being evidenced by a certified copy of contract and deed thereto, submitted herewith, and marked Exhibit A; that since notice was received by me on the ..... day of ...., 191.., that water was available in said canal system for the irrigation of said tract, I have resided on said tract ..... (state fully the nature of such residence); that since receiving such notice I have cultivated by irrigation ..... acres of the tract embraced in said entry, that

the crops grown thereon consisted of ..... (describe fully the crops grown or growing); that other crops consist of ..... (describe fully such improvements); that from personal knowledge water was conducted upon ..... acres of said tract; that ..... miles of main lateral ditches are now constructed on said tract.

(Draw in the space below a diagram showing the tract embraced in the entry upon which shall be indicated the portion cultivated; the main lateral ditches, giving the dimensions and capacity of each; also any high points which cannot be irrigated from this or any other system, showing the extent and area of same. If the tract is crossed by any natural running water, indicate the same and describe it fully in relation to the lands adjacent thereto.)

Sketch of Entry No.....

Embracing .....
of section ....., Tp....., R.....
of Boise Meridian.

That upon no portion of this tract can agricultural crops be produced without the aid of irrigation, except (describe the portion, if any); that I entered this land for my sole benefit, that I have the sole and entire interest in the same, and that no individual, company or corporation has any interest whatever in said entry, excepting .....(describe fully the nature of such interest, if any).

Sign name in full.....
....., 191..

I hereby certify that the foregoing testimony was read to the claimant before being subscribed, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me at my office in .....on the .....day of ....., 191..

.....
State official title.....

FORM H.—FINAL PROOF

Deposition of Two Witnesses in This Form to be Taken Separately

Entry No. ....., made under the provisions of an act of the legislature of the State of Idaho, commonly known as the "Carey Act," approved March 2, 1899.

I, ..., being duly sworn, depose and say that I am ..... years of age, a ..... by occupation, that my residence is ..... and postoffice address ....., that I am acquainted with ....., who made entry No. ....., under the provisions of said act, which embraces ..... of section....., township..... ....., of range ....., containing ..... acres; that I am well acquainted with the said land, having been over and upon every legal sub-division of the same, that upon the ..... day of ..... 191...., I saw water in sufficient quantity for the complete irrigation of the entire tract distributed through the main laterals constructed on said land for the irrigation thereof, that there are ..... miles of main distributing laterals constructed on said land (state dimension and capacity of said laterals) .....; that ..... acres embraced within said entry have been cultivated by irrigation and produced ..... (describe fully crops produced); that said land receives water for irrigation from the ..... Canal, being ..... miles distant from the same; that said water is delivered by means of a main lateral ditch, which is ..... (state dimensions of same) ..... at a point ..... distant from said land; that ..... acres of said land can be irrigated and reclaimed by said canal system, and that ..... acres lie above the level of said canal system ..... (state character and extent of land belonging to this tract which cannot be reclaimed by this or any other canal system); that the entryman owns and controls ..... water rights or shares in said ..... Canal, which represent a carrying capacity in said canal of ..... cubic feet per second; also a proportional interest or ownership in such canal with all its rights and franchises; also that this interest in said works gives him the right to conduct through the same for

the use on each and every acre of land embraced in said entry of ..... acre-feet of water to be delivered to him during each and every irrigating season, which quantity of water is sufficient for the complete reclamation and irrigation of said tract; that upon no portion of this tract can agricultural crops be produced without the aid of irrigation, except ..... (describe the portion, if any); that the said entryman has resided upon this land since the ..... day of ....., 191.... (state fully nature of such residence); that I have no interest, either direct or indirect, in this entry, nor in the land covered thereby except (state nature of such interest, if any) .....; that no coal or other minerals have been discovered on said land, neither are any such known by me to be contained therein, neither do indications of mineral of any kind exist on said land, except ..... (state extent of mineral deposit and describe indications of minerals, if any).

Sign name in full.....

I hereby certify that the above testimony was taken and subscribed before me this day, and that the same was read to the witness in my presence before he signed his name thereto, that I believe the witness to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me at my office on the .....day of ....., 191....

.....

State official title .....

FORM I.—NON-MINERAL AFFIDAVIT (OLD)

(Now modified by provisions of Acts of March 3, 1909, and June 22, 1910—see Appendix)

To accompany evidence submitted in final proof to entry No ..... made under the provision of an act of the legislature of the State of Idaho, commonly known as the "Carey Act," approved March 2, 1899.

(This affidavit can be sworn to only on personal knowledge, and cannot be made on information and belief. The non-mineral affidavit accompanying an entry of public land must be made by the party making the entry, and only before the officer taking the other affidavits required of the entryman.)

....., 191....

..... being duly sworn according to law deposes and says that he is the identical ..... who is an applicant for government title to the .....; that he is well acquainted with the character of said described land, and with each and every subdivision thereof, having frequently passed over the same; that his personal knowledge of said lands is such as to enable him to testify understandingly with regard thereto; that there is not, to his knowledge, within the limits thereof, any vein or lode of quartz or other rock in place, bearing gold, silver, cinnabar, lead, tin or copper, or any deposit of coal; that there is not within the limits of said land, to his knowledge, any placer, cement. gravel or other valuable mineral deposit; that no portion of said land is claimed for mining purposes under the local customs or rules of miners, or otherwise; that no portion of said land is worked for mineral during any part of the year by any person or persons; that said land is essentially non-mineral land, and that his application therefor is not made for the purpose of fraudulently obtaining title to mineral land, but with the object of securing said land for agricultural purposes, and that his postoffice address is

.....

I hereby certify that the foregoing affidavit was read to affiant in my presence before he signed his name thereto; that said affiant is to me personally known (or has been satisfactorily identified before me by .....), and that I verily believe him to be a credible person and the person he represents himself to be, and that his affidavit was subscribed and sworn to before me at my office in ..... on this ..... day of ....., 191..

.....

State official title.....

FORM J.—FINAL CERTIFICATE

Entry No..... ....., Idaho

....., 191..

It is hereby certified that under the provisions of an act of the legislature of the State of Idaho, approved March 2, 1899, entitled, "An Act to Provide for a

State Engineer, Defining His Duties and Regulating His Compensation, and to Provide for the Acceptance by the State of Idaho from the United States of Certain Lands, and to Provide for the Reclamation, Occupation and Disposal of Same," commonly known as the "CareyAct" and the acts amendatory thereto, ... whose postoffice address is ..... appeared before me this ..... day of ....., 191...., and submitted evidence of the reclamation, cultivation and settlement of entry No. ....., embracing the ..... of section ....., township ....., of range ....., containing ..... acres, and has paid to the State of Idaho, through me, the sum of ..... dollars, being at the rate of twenty-five (25) cents per acre, being the final payment on said land.

.....

Official title.....

Boise, Idaho, ..., 191..

This is to certify that at a meeting of the State Board of Land Commissioners, duly held in the office of the said Board, this ..... day of ....., 191.., the evidence of reclamation, cultivation and settlement of the land embraced in entry No....., referred to in the above certificate, was examined and the same is hereby approved.

.....

Governor and Chairman State Board of Land Commissioners.

Attest:

.....

Register and Secretary State Board of Land Commissioners

ASSIGNMENT OF ENTRY

Entryman's Affidavit

For value received, I do hereby transfer, assign, and set over to ....., his heirs and assigns, forever, all my right, title and interest in and to that certain tract of land described as follows:

Said tract of land having been entered by me as per certificate of entry No....., issued by the State Board of Land Commissioners of the state of Idaho on the ..... day of ....., 191.... Also all my rights, title and interest in, to and under a certain contract with the ....., the said contract being numbered .... and dated ....., 191..

.....

In presence of

.....

.....

State of Idaho, }
County of .....} ss.

On this ..... day of ....., 191.., before me, ... a notary public in and for said county, personally appeared ....., known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same.

In Witness Whereof, I have hereunto set my hand and affixed my seal the day and year in this certificate above written.

.....

Notary Public.

Known All Men by These Presents, That assent is hereby given to the assignment of original water contract No. ....., by ..... to ..... so far as our interest may appear, and we hereby certify that the transfer to ..... of all the interest in the canal system contracted for by the original entryman, has been entered on the books of the company.

.....

By.....

Witnesses:

.....

.....

FORM K.—AFFIDAVIT OF ASSIGNEE

I, ... of ....., claiming to be the assignee of ....., who made entry No ....., on the ..... day of ....., 191.., under the provisions of an act of the legislature of the State of Idaho, commonly known as the "Carey Act," approved March 2, 1899, do solemnly swear that I am a bona fide resident citizen of the state or territory of ..... and a citizen of the United States, or I have declared my intention to become a citizen of the United States; that the said ....., who made said entry, did, on the ..... day of ....., 191.., transfer his right thereunder to me, by virtue of instrument in writing, of which a certified copy is herewith attached; and further, that I do not hold, by assignment or otherwise, more than one hundred and sixty (160) acres of land entered under said act, the only lands so held by me being described as follows: ..... section ..... township ..... range ....., being entry No. ....., and that I possess all the qualifications necessary to make an original entry under the provisions of said act, of the land embraced in entry No ....., of which I am the assignee.

.....

My postoffice address is:

Sworn to and subscribed before me this ..... day of ....., 191.., at my office in ..... county, ...

.....—.....

POWER OF ATTORNEY

Know All Men by These Presents: That I, ... of ..... postoffice, in the County of ..... and State of ....., do hereby make, constitute and appoint ..... of .....my attorney and agent for me and in my name, place and stead, to make application to the State Board of Land Commissioners of the State of Idaho, for the entry of land under the provisions of the Act of the Legislature of the State of Idaho, approved March 2, 1899, entitled "An Act to Provide for a State Engineer, Defining His Duties and Regulating His Compensation," etc., and to receive from the said State Land Board the certificate of such entry, as required by its rules and regulations; also to make all contracts and do all things necessary in the purchase of a water right for said lands. The land so to be entered by my said agent is situated in the County of ....., State of Idaho.

Hereby giving and granting unto my said attorney and agent full power and authority to do and perform all and every act and thing whatsoever requisite and necessary to be done in and about the premises as fully to all intents and purposes as I might or could do if personally present, hereby ratifying and confirming all that my said attorney and agent shall lawfully do or cause to be done by virtue of these presents.

In Witness Whereof, I have hereunto set my hand and seal the ..... day of ....., A. D. 191.. Signed, sealed and delivered in the presence of

.....Seal.

.....

State of .....}
County of .....} ss.

On this ..... day of .....,in the year of our Lord one, thousand nine hundred and ....., before me ....., a Notary Public in and for said County and State, personally appeared..... known to me to be the person whose name is subscribed to the within instrument, and duly acknowledged to me that he executed the same.

.....

Notary Public.

My commission expires .....

CAREY ACT FEES

For filing each application for entry—$1.00.

For taking evidence in final proof—$2.00.

For taking evidence of annual proof of cultivation—$1.50.

For granting each leave of absence—$1.00.

The forms prescribed by the other states are similar to those herein presented—variances being explained by differing provisions of statutes and regulations.

APPENDIX

AN ACT FOR THE PROTECTION OF THE SURFACE RIGHTS OF ENTRYMEN

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person who has in good faith located, selected, or entered under the nonmineral land laws of the United States any lands which subsequently are classified, claimed, or reported as being valuable for coal, may, if he shall so elect, and upon making satisfactory proof of compliance with the laws under which such lands are claimed, receive a patent therefor, which shall contain a reservation to the United States of all coal in said lands, and the right to prospect for, mine, and remove the same. The coal deposits in such lands shall be subject to disposal by the United States in accordance with the provisions of the coal-land laws in force at the time of such disposal, but no person shall enter upon said lands to prospect for, or mine and remove coal therefrom, without previous consent of the owner under such patent, except upon such conditions as to security for and payment of all damages to such owner caused thereby as may be determined by a court of competent jurisdiction: **Provided,** That the owner under such patent shall have the right to mine coal for use on the land for domestic purposes prior to the disposal by the United States of the coal deposit: **Provided further,** That nothing herein contained shall be held to affect or abridge the right of any locator, selector, or entryman to a hearing for the purpose of determining the character of the land located, selected, or entered by him. Such locator, selector, or entryman who has heretofore made or shall hereafter make final proof showing good faith and satisfactory compliance with the law under which his land is claimed shall be entitled to a patent without reservation unless at the time of such final proof and entry it shall be shown that the land is chiefly valuable for coal.

Approved, March 3, 1909. (This Act applies to "Carey Act" selections and entries.)

AN ACT TO PROVIDE FOR AGRICULTURAL ENTRIES ON COAL LANDS

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this Act, unreserved public lands of the United States exclusive of Alaska, which have been withdrawn or classified as coal lands, or are valuable for coal, shall be subject to selection under section four of the Act approved August 18, 1894, known as the Carey Act. Such selection shall be made with a view of obtaining or passing title, with a reservation to the United States of the coal in such lands and of right to prospect for, mine and remove the same.

Section 2. That any State desiring to make selection under section four of the Act of August 18, 1894, known as the Carey Act, of lands classified as coal lands, or valuable for coal, with a view of securing or passing title to the same in accordance with the provisions of said Act, shall state in the application for selection that the same is made in accordance with and subject to the provisions and reservations of this Act.

Section 3. That upon satisfactory proof of full compliance with the provisions of the laws under which entry is made, and of this Act, the entryman shall be entitled to a patent to the land entered by him, which patent shall contain a reservation to the United States of all the coal in the lands so patented, together with the right to prospect for, mine, and remove the same. The coal deposits in such lands shall be subject to disposal by the United States in accordance with the provisions of the coal land laws in force at the time of such disposal. Any person qualified to acquire coal deposits or the right to mine and remove the coal under the laws of the United States shall have the right, at all times, to enter upon the lands selected, entered, or patented, as provided by this Act, for the purpose of prospecting for coal thereon, upon the approval by the Secretary of

the Interior of a bond or undertaking to be filed with him as security for the payment of all damages to the crops and improvements on such lands by reason of such prospecting. Any person who has acquired from the United States the coal deposits in any such land, or the right to mine or remove the same, may re-enter and occupy so much of the surface thereof as may be required for all purposes reasonably incident to the mining and removal of the coal therefrom, and mine and remove the coal, upon payment of the damages caused thereby to the owner thereof, or upon giving a good and sufficient bond or undertaking in an action instituted in any competent court to ascertain and fix said damages: **Provided,** That the owner under such limited patent shall have the right to mine coal for use upon the land for domestic purposes at any time prior to the disposal by the United States of the coal deposits: **Provided, further,** That nothing herein contained shall be held to deny or abridge the right to present and have prompt consideration of applications to locate, enter, or select, under the land laws of the United States, lands which have been classified as coal lands with a view of disproving such classification and securing a patent without reservation.

Approved, June 22, 1910.

Affidavits as to "non-coal" character of lands as set forth (in "Forms") in preceding pages will be modified in accordance with this Act.

Cases Within Purview of Last Sentence of Act

8. It will be observed that the last sentence of the act provides that where final proof has heretofore been made, or shall hereafter be made, showing good faith and satisfactory compliance with the law under a location, selection, or entry made prior to classification, or report of coal character, the locator, selector, or entryman in such case will be entitled to a patent without reservation unless, at the time of such final proof and entry, it shall be shown that the land is chiefly valuable for coal. Therefore in all cases where such locations, selections, and entries have proceeded to final proof and entry, no hearings will be ordered except in cases where reports or charges are made showing that the proof could not have been made in good faith because of the known coal character of the land, or because of some other fact tending to establish a want of good faith in the claimant.

This provision of the act means that where a nonmineral claim has in good faith and after due compliance with law been carried to final proof and entry, the mere fact that the land has been classified, claimed, or reported as being valuable for coal will not in itself prevent the claimant from receiving a patent without a reservation to the United States of the coal, but of course if the land was prior to final proof known (to the entryman, locator, or selector, or generally in the vicinity) to be coal land, the nonmineral location, selection, entry, or proof must necessarily have been made in bad faith, and upon that ground such nonmineral claim may be attacked even though it may have proceeded to final proof and entry.

INSTRUCTIONS UNDER THE ACT APPROVED JUNE 22, 1910, "TO PROVIDE FOR AGRICULTURAL ENTRIES ON COAL LANDS"

The Purpose of the Act

This act was not designed to operate as an implied repeal of any provision of the act of March 3, 1909 (35 Stat., 844). There is no inconsistency between the two acts, and both of them may have harmonious operation within their proper spheres. The earlier law provides a remedy in those cases in which entries, locations, and selections have been or may be made for lands which, subsequently to entry, location, or selection, have been, or may be, claimed, classified, or reported as being valuable for coal, while the later act permits dispositions (therein named) to be made of lands valuable for coal, notwithstanding that they may have been previously withdrawn, or classified as such. The proviso to section 1 of the later act also affords relief to those persons who, prior to June 22, 1910, in good faith made entries, locations, or selections of lands which, at the date of such entries, locations, or selections, had been withdrawn or classified, as valuable for coal.

Lands to Which the Act Is Applicable

The act applies to unreserved public lands of the United States in those States and Territories in which the coal-land laws are applicable, exclusive of the Dis-

trict of Alaska, which have been withdrawn from coal entry and not released therefrom, or which have been classified as coal lands or which are valuable for coal, though not withdrawn or classified.

(a) Section 1 of the act provides that from and after its passage, the unreserved public lands of the United States, exclusive of Alaska, which have been withdrawn or classified as coal lands, or are valuable for coal, shall be subject to selection under section 4 of the act approved August 18, 1894, known as the Carey Act, whenever such entries or withdrawals shall be made with a view of obtaining or passing title, with a reservation to the United States of the coal in such lands and of the right to prospect for, mine, and remove the same.

Section 2 of the act provides that any State desiring to make selection under section 4 of the act of August 18, 1894, known as the Carey Act, of lands classified as coal lands, or valuable for coal, with a view to securing or passing title to the same in accordance with the provisions of said acts, shall state in the application for entry, selection, or notice of withdrawal that the same is made in accordance with and subject to the provisions of this act.

In the proviso to section 1 it is enacted that those who have initiated nonmineral entries, selections, or locations in good faith, prior to the passage of this act, on lands withdrawn or classified as coal lands, may perfect the same under the provisions of the laws under which said entries were made, but shall receive the limited patent provided for in this act.

The last proviso to section 3 of the act provides that nothing in the act contained shall be held to deny or abridge the right to present and have prompt consideration of applications to locate, enter, or select, under the land laws of the United States, lands which have been classified as coal lands, with a view of disproving such classification and securing a patent without reservation.

Disposal of Coal Deposits[1]

Right to prospect for coal—Bond to be filed.—By section 3 of the act it is provided that upon satisfactory proof of full compliance with the provisions of the laws under which entry is made, and of this act, the entryman shall be entitled to a patent to the land entered by him, which patent shall contain a reservation to the United States of all the coal in the land so patented, together with the right to prospect for, mine, and remove the same; and that the coal deposits in such lands shall be subject to disposal by the United States in accordance with the provisions of the coal-land laws in force at the time of such disposal. Said section 3 also provides that any person qualified to acquire coal deposits or the right to mine and remove the coal under the laws of the United States shall have the right, at all times, to enter upon the lands selected, entered, or patented, as provided by this act, for the purpose of prospecting for coal thereon upon the approval of the Secretary of the Interior of a bond or undertaking to be filed with him as security for the payment of all damages to the crops and improvements on such lands by reason of such prospecting; and that any person who has acquired from the United States the coal deposits in any such land, or the right to mine or remove the same, may reenter and occupy so much of the surface thereof as may be required for all purposes reasonably incident to the mining and removal of the coal therefrom, and mine and remove the coal, upon payment of the damages caused thereby to the owner thereof, or upon giving a good and sufficient bond or undertaking in an action instituted in any competent court to ascertain and fix said damages.

As a condition precedent to the exercise of the right mentioned in this act to prospect for coal, the person desiring so to prospect must file in the office of the Commissioner of the General Land Office, for submission to the Secretary of the Interior for his approval, a bond or undertaking to indemnify the nonmineral claimant in lawful possession under this act from all damages that may accrue to the latter's crops and improvements on such lands by reason of such prospecting, the right to prospect to date from receipt of notice of approval of the bond. There must be filed with such bond evidence of service of a copy thereof upon the nonmineral claimant. The bond must be executed by the prospector as principal, with two competent sureties or a bond company that has complied with the provisions of the act of August 13, 1894 (28 Stat., 289), as amended by the act approved March 23, 1910 (36 Stat., 241), in the sum of $1,000, as per form hereto annexed.

Applications, Certificates, and Patents.

Entries and selections under the provisions of this act must have noted across the face of the application for entry or selection, before such application for entry or selection is signed by the applicant and presented to you, the following:

Stamped on the final certificates issued to nonmineral claimants under this act will appear this clause, viz:

Patent to contain provisions, reservations, conditions, and limitations of act of June 22, 1910 (36 Stat., 583).

There will be incorporated in patents issued to nonmineral claimants under this act the following:

Excepting and reserving, however, to the United States all the coal in the lands so patented, and to it, or persons authorized by it, the right to prospect for, mine, and remove the coal from the same upon compliance with the conditions and subject to the provisions and limitations of the act of June 22, 1910 (36 Stat., 583).

Form of Bond

(Approved by Department, September 8, 1910.)
(Under act of June 22, 1910, 36 Stat., 583.)

Know All Men by These Presents, That I .... of ..... (or we .... of ..... and .... of ....., as the case may be), a citizen (or citizens) of the United States, or having declared my (or our) intention to become a citizen (or citizens) of the United States, and never having held or purchased lands from the United States under the coal-land laws, either as an individual or as a member of an association, as principal (or principals), and .... of ....., and .... of ....., as sureties, are held and firmly bound unto ...., his heirs, executors, administrators, or assigns, in the full sum of one thousand dollars ($1,000), lawful money of the United States, for the payment of which, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, and each and every one of us and them, jointly and severally, firmly by these presents.

Signed with our hands and sealed with our seals this ..... day of ..... 191.....

The Condition of This Obligation is Such, That whereas the above bounden .... is desirous of entering upon the ....., section....., township ....., range ..... ., land district ....., for the purpose of prospecting for coal thereon under the provisions of the act of June 22, 1910 (36 Stat., 583); and, whereas, the above-named .... is the lawful claimant of said land,

Now, Therefore, if the said above bounden parties, or either of them, or the heirs of either of them, their executors or administrators, upon demand, shall make good and sufficient recompense, satisfaction, and payment unto the said claimant, his heirs, executors, or administrators, or assigns, for all such damages to the crops and improvements on said lands as the said claimant, his heirs, executors, administrators, or assigns shall suffer or sustain by reason of his, the above bounden principal's, prospecting for coal on said described land, then this obligation shall be null and void; otherwise the same shall remain in full force and effect.

....
Principal.

Signed and sealed in the presence of, and witnessed by, the undersigned:

Residence ....

....

....
Surety.

Residence ....

Residence ....

....

....
Surety.

Residence ....

Residence ....

INSTRUCTIONS UNDER ACT OF CONGRESS APPROVED MARCH 3, 1909, "FOR THE PROTECTION OF SURFACE RIGHTS OF ENTRYMEN"

Pur ose of the Act

As indicated by its title and as plainly appears from its context the act was designed to protect the rights of persons who in good faith enter, under nonmineral laws, public lands which are subsequently classified, claimed, or reported as being valuable for coal; and the act applies not only to entries made prior to the passage thereof but also to entries made subsequent thereto, provided only that the land entered was classified, claimed, or reported as being valuable for coal after the date of entry.

Election

Under the provisions of this act all persons who in good faith locate, select, or enter, under the nonmineral laws, lands which are, subsequent to the date of such location, selection, or entry, classified, claimed, or reported as being valuable for coal, may elect, upon making satisfactory proof of compliance with the laws under which they claim, to receive patents upon their location, selection, or entry, as the case may be, such patent to contain a reservation to the United States of all coal in the lands and the right of the United States, or anyone authorized by it, to prospect for, mine, and remove the coal in accordance with the conditions and limitations imposed by the act.

Upon receipt of these instructions registers and receivers will promptly advise, by registered mail, each locator, selector, or entryman having a claim falling within the provisions of the act that he will be allowed sixty days from notice within which to file in the local land office his election to take patent for the land, exclusive of the coal deposits contained therein, or to file a denial that the land contains coal of workable value and request a hearing to determine that question. The notice should be given and the election made on the accompanying forms.

Upon receipt of election to take patent, exclusive of the coal in the lands, and upon satisfactory proof of compliance with the law under which the claim is based, patent will issue upon such nonmineral location, selection, or entry containing the reservation, condition, and limitations prescribed in the act. In such cases the owner under the patent may mine coal from the land for his own use only up to and including the time of the disposal of the coal by the United States to some other party.

If, after notice and upon the expiration of the sixty days allowed herein, no action indicating an election is taken by the party in interest, such failure to take action will be considered an election to receive patent which will contain a reservation to the United States of all the coal, and thereafter such entry will be treated accordingly.

Hearings—Burden of Proof

Where locators, selectors, or entrymen file denials of the coal character of the land, together with statements under oath as a basis for hearing, the register and receiver will forward all papers to the General Land Office, and if upon consideration the land is reclassified as noncoal the parties will be so advised and the cases allowed to proceed to final entry and patent, if otherwise regular. If reclassification is not made in such cases, hearing will be ordered through the register and receiver, of which all parties and also the chief of field division of special agents will be duly advised.

In all cases where it appears that the land was classified, claimed, or reported as being valuable for coal subsequent to the date of the nonmineral entry involved, the burden of proof at the hearing will be upon the United States to show that the land included in the location, selection, or entry is chiefly valuable for the coal deposits therein. However, in those cases where nonmineral entries have been made subsequent to the date on which the land was classified, claimed, or reported as being valuable for coal, the burden of proof will be upon the nonmineral entryman to show that the land doesnot in fact contain valuable deposits of coal.

For further information and instructions as to procedure under these Acts, readers are advised to communicate with "The Commissioner of the General Land Office, Washington, D. C."

INDEX

Part I. Introductory 7
Part II. Land and Its Disposal 13
Part III. Water and Water Rights 25
Part IV. Taxation — Schools — Citizenship — Rights of Women — Liquor Option, etc 41
Part V. Carey Act Projects 45
Part VI. The Federal Carey Act—Federal Regulations and Forms—State Forms 51
Appendix—Coal Lands—Recent Legislation and Regulations 63
Introductory 7
Land and Its Disposal 13
Acreage—Minimum Acreage Irrigable to bring tract within a "Carey Act" Segregation 22
Co-operative Association—Special Regulations 22
Cultivation—By Employe or Tenant 22
Entry:
Application 16
Approval 16
Assignment 21
Entrymen:
Rights of Entrymen 20
Forfeiture 20
Redemption 20
Escrow Agreement 17
Filings—Subsequent to first—Special Regulations 15
House—Character of Habitation required 21
Land:
Amounts that may be Entered 15
Appraisal 18
Classification 18
Leasing 18
Occupation (temporary) 18
Patent (state's application to United States) 19
Payment for Land 19
Price of Land 19
Qualifications necessary to enter Land 14
State Lands under Carey Act Projects 22
When and How Public Lands may be thrown open to Entry 15
Leave of Absence 21
Proof—Annual and Final 17
Protection of Settler's First Payment—Escrow and Company Bond 17
Residence—When to be Established 17
State Land Boards—Addresses and Lists of Officers 14
Water and Water Rights 25
Company—Permitted to enlarge and extend its System or to deliver Water for Irrigation, Power or Municipal Purposes 33
Contracts—
Between States and Companies 25
Between States and Companies, and Companies and Settlers 29

Eminent Domain—Rights of Way for Canals 33
Initiation and Completion of Work by Company 31
Maintenance Fee 37
Miscellaneous 40
Regulations—General Summary 31
Rights of Way—
(a) For Company's Canals and Laterals 33
(b) For Settler's Laterals 39
(d) For Roads 40
(e) For Railroads 40
Shares in Company 34
Water—
(a) "Duty" of Water 39
(b) How close to Individual Entry 38
(c) Measurement, Delivery and Distribution 39
(d) Notice to Settlers that Water is ready for delivery 37
(e) Waste of Water 39
Water Rights—
(a) Become appurtenant to Land 20
(b) Company may sell Water Rights, when 34
(c) Cost of Water Rights 36
(d) Payment for Water Rights or "Shares" 36
(e) Rebate of Water Charge for Non-irrigable Portion of Entry 37
Works—
Control and Operation 34
Transfer of Ownership 34
Taxation, Schools, Citizenship, etc.—
Citizenship 43
Liquor Option Laws 43
Schools 42
Taxation 41
Suffrage Rights 43
Women's Suffrage Rights 43
Women's Rights as to Property 43
Carey Act Projects and Bureaus of Information—
Bureaus of Immigration, etc 48
Addresses and Lists of Officers 48
List of Carey Act Projects having Lands open to Entry 45

STATUTES, REGULATIONS AND FORMS

Carey Act—Federal Act and Amendments 51
Federal Regulations 53
Federal "Forms" 55
State "Forms" 55
(a) Application to Entry 55
(b) Assignment of Entry 61
Entryman's Affidavit 61
Assignee's Affidavit 62
(c) Certificate of Entry, Original 56
(d) Fees 62
(e) Final Certificate 60
(f) Non-Mineral Affidavit 60
(g) Notice that Water is ready for delivery 57
(h) Power of Attorney 62
(i) Proofs of Cultivation—Final Proof 57
Deposition of Entryman 58
Deposition of two Witnesses 59
Notice for Publication 58

UNIVERSITY OF CALIFORNIA LIBRARY
BERKELEY

Return to desk from which borrowed.
This book is DUE on the last date stamped below.

16Jun'49 LE
3Apr'50BC
21Apr'53HD
APR 9 1953 LU
5Jun54JR
JAN 5 1954 LU
10Jun'59GM
REC'D LD
MAY 31 1959
22Mar'60CF
REC'D LD
MAY 27 1960
11Apr'62JW
REC'D LD
APR 23 1962

LD 21-100m-9,'48(B399s16)476

YC 82516

M75763

HD1727
B6

THE UNIVERSITY OF CALIFORNIA LIBRARY

Press of
Blakely Printing Co.,
Chicago.